

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 8/23/22

Rules Committee action requested [Choose from drop down menu below]:

Approve

Title of proposal: Civil Jury Instructions: Instructions with Minor or Nonsubstantive Revisions (Release 42)

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

Judicial Council of California Civil Jury Instructions (CACI) Nos. 306, 472, 509, 600, 2102, 2430, 2500, 3020, 3046, 3050, 3103, 3107, 3201, and 3726

Committee or other entity submitting the proposal:

Advisory Committee on Civil Jury Instructions
Hon. Martin J. Tangeman, Chair

Staff contact (name, phone and e-mail): Eric Long, 415-865-7691, eric.long@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): 11/02/21

Project description from annual agenda: 5. Maintenance—Sources and Authority;

6. Maintenance—Secondary Sources; and

7. Technical Corrections

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

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

California Rules of Court, rules 2.1050(d) and 10.58(a), require the advisory committee to update, amend, and add topics to CACI on a regular basis and to submit its recommendations to the council for approval. The Judicial Council has given the Rules Committee final authority to approve instructions with changes to the Directions for Use or additions to the Sources and Authority under the provisions of the guidelines adopted on December 19, 2006, titled Jury Instructions Corrections and Technical and Minor Substantive Changes. Pursuant to this delegation of authority, the advisory committee requests that the Rules Committee give final approval to 14 revised CACI instructions for release 42.

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

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

This proposal:

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

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

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

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

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



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MEMORANDUM

Date

August 12, 2022

To

Members of the Rules Committee

From

Advisory Committee on Civil Jury
Instructions
Hon. Martin J. Tangeman, Chair

Subject

Civil Jury Instructions: Instructions with
Minor or Nonsubstantive Revisions
(Release 42)

Action Requested

Review and Approve Publication of
Instructions

Deadline

August 23, 2022

Contact

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Executive Summary

The Advisory Committee on Civil Jury Instructions recommends that the Rules Committee approve revisions to the *Judicial Council of California Civil Jury Instructions (CACI)* to maintain and update those instructions. The 14 instructions in this release, prepared by the advisory committee, contain the types of revisions that the Judicial Council has given the Rules Committee final authority to approve—primarily changes to the Sources and Authority that are nonsubstantive and unlikely to cause controversy. Also included within these instructions are grammatical, typographical, and citation corrections for which the Rules Committee has delegated authority to the Advisory Committee on Civil Jury Instructions.

Recommendation

The Advisory Committee on Civil Jury Instructions recommends that the Rules Committee approve for publication revisions to 14 civil jury instructions, prepared by the advisory committee, that contain changes that do not require posting for public comment or full Judicial Council approval: CACI Nos. 306, 472, 509, 600, 2102, 2430, 2500, 3020, 3046, 3050, 3103, 3107, 3201, and 3726.

These instructions will be published in the 2023 edition of *CACI* and posted online on the California Courts website, and on Lexis and Westlaw.

The revised instructions are attached at pages 5–68.

Relevant Previous Council Action

In 2003, the Judicial Council approved civil jury instructions—drafted by the Task Force on Jury Instructions—for initial publication in September 2003. The Advisory Committee on Civil Jury Instructions is charged with maintaining and updating those instructions.¹

In 2006, the Judicial Council approved the Rules Committee’s delegation of authority to the Advisory Committee on Civil Jury Instructions to review and approve nonsubstantive grammatical and typographical corrections to the jury instructions, and authority for the Rules Committee to “[r]eview and approve nonsubstantive technical changes and corrections and minor substantive changes unlikely to create controversy to Judicial Council of California Civil Jury Instructions (*CACI*) and Criminal Jury Instructions (*CALCRIM*).”²

Under the implementing guidelines that the Rules Committee (formerly known as the Rules and Projects Committee or RUPRO) adopted on December 19, 2006, titled *Jury Instructions Corrections and Technical and Minor Substantive Changes*, the Rules Committee has final approval authority over the following:

- (a) Additions of cases and statutes to the Sources and Authority;
- (b) Changes to statutory language quoted in Sources and Authority that are required by legislative amendments, provided that the amendment does not affect the text of the instruction itself;³
- (c) Additions or changes to the Directions for Use;⁴

¹ Cal. Rules of Court, rules 2.1050(d), 10.58(a).

² Judicial Council of Cal., Rules and Projects Committee, *Jury Instructions: Approve New Procedure for RUPRO Review and Approval of Changes in the Jury Instructions* (Sept. 12, 2006), p. 1.

³ In light of the committee’s 2014 decision to remove verbatim quotes of statutes, rules, and regulations from *CACI*, this category is now mostly moot. It still applies if a statute, rule, or regulation is revoked, or if subdivisions are renumbered.

⁴ The committee only presents nonsubstantive changes to the Directions for Use for the Rules Committee’s final approval. Substantive changes are posted for public comment and presented to the council for approval.

- (d) Changes to instruction text that are nonsubstantive and unlikely to create controversy. A nonsubstantive change is one that does not affect or alter any fundamental legal basis of the instruction;
- (e) Changes to instruction text required by subsequent developments (such as new cases or legislative amendments), provided that the change, though substantive, is both necessary and unlikely to create controversy; and
- (f) Revocation of instructions for which any fundamental legal basis of the instruction is no longer valid because of statutory amendment or case law.

Analysis/Rationale

Overview of revisions

All 14 instructions in this release (Release 42) have proposed revisions under category (a) above (additions of cases and statutes to the Sources and Authority). In addition, some older entries in the Sources and Authority of several of those instructions have content that was updated to direct quotes from the cases, which (as noted below) is the approved standard for case excerpts.

Standards for adding case excerpts to Sources and Authority

The standards approved by the advisory committee for adding case excerpts to the Sources and Authority are as follows:

1. *CACI* Sources and Authority are in the nature of a digest. Entries should be direct quotes from cases. However, all cases that may be relevant to the subject area of an instruction need not be included, particularly if they do not involve a jury matter.
2. Each legal component of the instruction should be supported by authority—either statutory or case law.
3. Authority addressing the burden of proof should be included.
4. Authority addressing the respective roles of judge and jury (questions of law and questions of fact) should be included.
5. Only one case excerpt should be included for each legal point.
6. California Supreme Court authority should always be included, if available.
7. If no Supreme Court authority is available, the most recent California appellate court authority for a point should be included.
8. A U.S. Supreme Court case should be included on any point for which it is the controlling authority.
9. A Ninth Circuit Court of Appeals case may be included if the case construes California law or federal law that is the subject of the *CACI* instruction.
10. Other cases may be included if deemed particularly useful to the users.

11. The fact that the committee chooses to include a case excerpt in the Sources and Authority does not mean that the committee necessarily believes that the language is binding precedent. The standard is simply whether the language would be useful or of interest to users.

Sources and Authority format cleanup

CACI format requires that case excerpts in the Sources and Authority be of directly quoted material from the case. In some of the series, this format was not uniformly observed initially, and some excerpts are in the form of a legal statement with a citation rather than a direct quotation. Where found in instructions otherwise being revised or updated, these out-of-format excerpts have been deleted or converted to direct quotations. In one instance, the Sources and Authority contains a legal statement that has no direct quotation for the proposition (see *CACI* No. 2430); the committee recommends deleting that entry because it is out of format and does not provide support for any component of the instruction.

CACI format also orders statutes, rules, and regulations first; then case excerpts; and then any other authorities, such as a Restatement excerpt. Where found in instructions otherwise being revised or updated, excerpts that were out of order have been moved to the proper location.

Policy implications

Rule 2.1050 of the California Rules of Court requires the committee to regularly update, revise, and add topics to *CACI* and to submit its recommendations to the council for approval. This proposal fulfills that requirement.

Comments

Because the revisions to these instructions do not change the legal effect of the instructions in any way, they were not circulated for public comment.

Alternatives considered

California Rules of Court, rules 2.1050 and 10.58, specifically charge the advisory committee to regularly review case law and statutes; to make recommendations to the Judicial Council for updating, amending, and adding topics to *CACI*; and to submit its recommendations to the council for approval. The proposed revisions and additions meet this responsibility. There are no alternatives to be considered.

Fiscal and Operational Impacts

There are no implementation costs. To the contrary, under its publication agreement with the Judicial Council, the official publisher, LexisNexis Matthew Bender, will pay royalties to the council.

Attachments

1. Proposed revised *CACI* instructions, at pages 5–68

CIVIL JURY INSTRUCTIONS
(Release 42: Nonsubstantive Changes)
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306. Unformalized Agreement

[Name of defendant] contends that the parties did not enter into a contract because they had not signed a final written agreement. To prove that a contract was created, *[name of plaintiff]* must prove both of the following:

1. That the parties understood and agreed to the terms of the agreement; and
 2. That the parties agreed to be bound before a written agreement was completed and signed.
-

New September 2003; Revised December 2012, May 2020

Directions for Use

Give this instruction if the parties agreed to contract terms with the intention of reducing their agreement to a written and signed contract, but an alleged breach occurred before the written contract was completed and signed. For other situations involving the lack of a final written contract, see CACI No. 304, *Oral or Written Contract Terms*, and CACI No. 305, *Implied-in-Fact Contract*.

Do not give this instruction unless the defendant has testified or offered other evidence in support of the contention.

Sources and Authority

- “Where the writing at issue shows ‘no more than an intent to further reduce the informal writing to a more formal one’ the failure to follow it with a more formal writing does not negate the existence of the prior contract. However, where the writing shows it was not intended to be binding until a formal written contract is executed, there is no contract.” (*Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 307 [87 Cal.Rptr.2d 822], internal citations omitted.)
- ~~The execution of a formalized written agreement is not necessarily essential to the formation of a contract that is made orally:~~ “[I]f the respective parties orally agreed upon all of the terms and conditions of a proposed written agreement with the mutual intention that the oral agreement should thereupon become binding, the mere fact that a formal written agreement to the same effect has not yet been signed does not alter the binding validity of the oral agreement. [Citation.]” (*Banner Entertainment, Inc. v. Superior Court* (1998) 62 Cal.App.4th 348, 358 [72 Cal.Rptr.2d 598].)
- ~~If the parties have agreed not to be bound until the agreement is reduced to writing and signed by the parties, then the contract will not be effective until the formal agreement is signed. “Thus, where it is part of the understanding between the parties that the terms of their contract are to be reduced to writing and signed by the parties, the assent to its terms must be evidenced in the manner agreed upon or it does not become a binding or completed contract.”~~ (*Beck v. American Health Group International, Inc.* (1989) 211 Cal.App.3d 1555, 1562 [260 Cal.Rptr. 237].)

- “Whether it was the parties’ mutual intention that their oral agreement to the terms contained in a proposed written agreement should be binding immediately is to be determined from the surrounding facts and circumstances of a particular case and is a question of fact for the trial court.” (*Banner Entertainment, Inc.*, *supra*, 62 Cal.App.4th at p. 358.)
- “[W]hen parties agree on the material terms of a contract with the intention to later reduce it to a formal writing, failure to complete the formal writing does not negate the existence of the initial contract. If the parties do not agree on the content of the formal writing (for example because one party wants to include something not agreed on in the first place, as [defendant] says happened here), the proposed writing is not a counteroffer; rather, the initial agreement remains binding and a rejected writing is a nullity.” (*CSAA Ins. Exchange v. Hodroj* (2021) 72 Cal.App.5th 272, 276 [287 Cal.Rptr.3d 264].)

Secondary Sources

1 Witkin, Summary of California Law (11th ed. 2017) Contracts, §§ 133, 134

13 California Forms of Pleading and Practice, Ch. 140, *Contracts*, § 140.22 (Matthew Bender)

5 California Points and Authorities, Ch. 50, *Contracts*, § ~~50.350~~50.50 (Matthew Bender)

1 Matthew Bender Practice Guide: California Contract Litigation, Ch. 13, *Attacking or Defending Existence of Contract—Absence of Essential Element*, 13.07[3]

472. Primary Assumption of Risk—Exception to Nonliability—Facilities Owners and Operators and Event Sponsors

[Name of plaintiff] claims [he/she/nonbinary pronoun] was harmed while [participating in/watching] [sport or other recreational activity, e.g., snowboarding] at [name of defendant]’s [specify facility or event where plaintiff was injured, e.g., ski resort]. To establish this claim, [name of plaintiff] must prove all of the following:

1. That [name of defendant] was the [owner/operator/sponsor/other] of [e.g., a ski resort];
2. [That [name of defendant] unreasonably increased the risks to [name of plaintiff] over and above those inherent in [e.g., snowboarding];]

[or]

[That [name of defendant] unreasonably failed to minimize a risk that is not inherent in [e.g., snowboarding] and unreasonably exposed [name of plaintiff] to an increased risk of harm;]

3. That [name of plaintiff] was harmed; and
 4. That [name of defendant]’s conduct was a substantial factor in causing [name of plaintiff]’s harm.
-

New December 2013; Revised and Renumbered ~~F~~from CACI No. 410 May 2017; Revised May 2019

Directions for Use

This instruction sets forth a plaintiff’s response to a defendant’s assertion of the affirmative defense of primary assumption of risk. Primary assumption of risk generally absolves the defendant of a duty of care toward the plaintiff with regard to injury incurred in the course of a sporting or other recreational activity covered by the doctrine. (See *Knight v. Jewett* (1992) 3 Cal.4th 296, 320 [11 Cal.Rptr.2d 2, 834 P.2d 696].) There is, however, a duty applicable to facilities owners and operators and to event sponsors not to unreasonably increase the risks of injury to participants and spectators beyond those inherent in the activity. (See *Nalwa v. Cedar Fair, L.P.* (2012) 55 Cal.4th 1148, 1162 [150 Cal.Rptr.3d 551, 290 P.3d 1158] [participants]; *Lowe v. California League of Prof. Baseball* (1997) 56 Cal.App.4th 112, 123 [65 Cal.Rptr.2d 105] [spectators].)

There is also a duty to minimize risks that are extrinsic to the nature of the sport; that is, those that can be addressed without altering the essential nature of the activity. (*Hass v. RhodyCo Productions* (2018) 26 Cal.App.5th 11, 38 [236 Cal.Rptr.3d 682].) Choose either or both options for element 2 depending on which duty is alleged to have been breached.

While duty is a question of law, courts have held that whether the defendant has increased the risk is a

question of fact for the jury. (See *Luna v. Vela* (2008) 169 Cal.App.4th 102, 112–113 [86 Cal.Rptr.3d 588] [and cases cited therein]; cf. *Willhide-Michiulis v. Mammoth Mountain Ski Area, LLC* (2018) 25 Cal.App.5th 344, 354 [235 Cal.Rptr.3d 716] [court to decide whether an activity is an active sport, the inherent risks of that sport, and whether the defendant has increased the risks of the activity beyond the risks inherent in the sport].) There may also be disputed facts that must be resolved by a jury before it can be determined if the doctrine applies. (See *Shin v. Ahn* (2007) 42 Cal.4th 482, 486 [64 Cal.Rptr.3d 803, 165 P.3d 581].)

For an instruction on primary assumption of risk applicable to coparticipants, see CACI No. 470, *Primary Assumption of Risk—Exception to Nonliability—Coparticipant in Sport or Other Recreational Activity*. For an instruction on primary assumption of risk applicable to instructors, trainers, and coaches, see CACI No. 471, *Primary Assumption of Risk—Exception to Nonliability—Instructors, Trainers, or Coaches*. For an instruction applicable to occupations with inherent risk, see CACI No. 473, *Primary Assumption of Risk—Exception to Nonliability—Occupation With Inherent Risk*.

Sources and Authority

- “[U]nder the primary assumption of risk doctrine, operators, sponsors and instructors in recreational activities posing inherent risks of injury have no duty to eliminate those risks, but do owe participants the duty not to unreasonably increase the risks of injury beyond those inherent in the activity.” (*Nalwa, supra*, 55 Cal.4th at p. 1162.)
- “The doctrine applies to recreational activities ‘involving an inherent risk of injury to voluntary participants ... where the risk cannot be eliminated without altering the fundamental nature of the activity.’ ” (*Griffin v. The Haunted Hotel, Inc.* (2015) 242 Cal.App.4th 490, 500 [194 Cal.Rptr.3d 830].)
- “Although the doctrine is often applied as between sports coparticipants, it defines the duty owed as between persons engaged in any activity involving inherent risks. The doctrine applies to activity ‘done for enjoyment or thrill, requires physical exertion as well as elements of skill, and involves a challenge containing a potential risk of injury’” (*Jimenez v. Roseville City School Dist.* (2016) 247 Cal.App.4th 594, 601 [202 Cal.Rptr.3d 536], internal citations omitted; see also *Bertsch v. Mammoth Community Water Dist.* (2016) 247 Cal.App.4th 1201, 1208 [202 Cal.Rptr.3d 757] [“These factors certainly apply to skateboarding”], internal citations omitted.)
- “What the primary assumption of risk doctrine does not do, however, is absolve operators of *any obligation* to protect the safety of their customers. As a general rule, where an operator can take a measure that would increase safety and minimize the risks of the activity *without also altering the nature of the activity*, the operator is required to do so. As the court explained in *Knight*, ‘in the sports setting, as elsewhere, the nature of the applicable duty or standard of care frequently varies with the role of the defendant whose conduct is at issue in a given case.’ When the defendant is the operator of an inherently risky sport or activity (as opposed to a coparticipant), there are ‘steps the sponsoring business entity reasonably should be obligated to take in order to minimize the risks without altering the nature of the sport [or activity].’ ” (*Grotheer v. Escape Adventures, Inc.* (2017) 14 Cal.App.5th 1283, 1300 [222 Cal.Rptr.3d 633], original italics, internal citations omitted.)

- “Thus, *Nalwa* actually reaffirms *Knight*’s conclusions regarding the duties owed to participants by operators/organizers of recreational activities. In short, such operators and organizers have two distinct duties: the limited duty not to increase the *inherent* risks of an activity under the primary assumption of the risk doctrine and the ordinary duty of due care with respect to the *extrinsic* risks of the activity, which should reasonably be minimized to the extent possible without altering the nature of the activity.” (*Hass, supra*, 26 Cal.App.5th at p. 38, original italics.)
- “The determinant of duty, ‘inherent risk,’ is to be decided solely as a question of law and based on the general characteristics of the sport activity and the parties’ relationship to it.” (*Griffin, supra*, 242 Cal.App.4th at p. 501.)
- “Admittedly, it is sometimes said that ‘[t]he existence and scope of a defendant’s duty of care in the primary assumption of risk context “is a *legal* question which depends on the nature of the sport or activity ... and on the parties’ general relationship to the activity, and is an issue to be decided by the court, rather than the jury.”’ This statement of the rule is correct where there is no dispute about the inherent risks, and such cases may be resolved on summary judgment. [¶] However this statement is overly broad. Although the risks inherent in *many* activities are not subject to reasonable dispute (e.g., being hit with a baseball during a game), the risks inherent in *some* activities are not commonly known. In such cases, expert testimony may be required ‘ “for purposes of weighing whether the inherent risks of the activity were increased by the defendant’s conduct.” ’ ... Thus, it is not entirely accurate to say inherent risks of an activity always present purely legal questions, because sometimes the nature of an activity and its risks must be gleaned from the evidence.” (*Jimenez, supra*, 247 Cal.App.4th at p. 608, original italics, internal citations omitted.)
- “In any case in which the primary assumption of risk doctrine applies, operators, instructors, and participants in the activity owe other participants a duty ‘not to act so as to *increase* the risk of injury over that inherent in the activity.’ But owners and operators of sports venues and other recreational activities have an *additional duty* to undertake reasonable steps or measures to protect their customers’ or spectators’ safety—if they can do so without altering the nature of the sport or the activity.” (*Mayes v. La Sierra University* (2022) 73 Cal.App.5th 686, 698 [288 Cal.Rptr.3d 693], original italics, internal citations omitted.)
- “Although we recognize the Court of Appeal decisions specifically addressing the point are in conflict, we believe resolving this issue is not a matter of further defining [defendant]’s duty, which would be a question of law for the court. Rather, it requires application of the governing standard of care (the duty not to increase the risks inherent in the sport) to the facts of this particular case—the traditional role of the trier of fact. (~~See, e.g., *Vine v. Bear Valley Ski Co.*, *supra*, 118 Cal.App.4th at pp. 591–592 [whether defendant’s design of snowboard jump increased inherent risks of snowboarding is question for jury]; *Solis v. Kirkwood Resort Co.*, *supra*, 94 Cal.App.4th at p. 365 [whether artificial jumps built by resort increased inherent risk of falling while skiing is question for jury]; *Lowe v. California League of Prof. Baseball* (1997) 56 Cal.App.4th 112, 123 [65 Cal.Rptr.2d 105] [whether distraction caused by activities of minor league baseball team’s mascot increased inherent risk of spectator being hit by a foul ball ‘is issue of fact to be resolved at trial’]; but see *Huff v. Wilkins*, *supra*, 138 Cal.App.4th at p. 745 [‘it is the trial court’s province to determine whether defendants breached their duty not to increase the inherent risk of a collision [in the sport of off-roading], and it should hold a hearing for this purpose before impaneling a jury’]; *American Golf*~~

~~*Corp. v. Superior Court* (2000) 79 Cal.App.4th 30, 37 [93 Cal.Rptr.2d 683] [‘[i]t is for the court to decide ... whether the defendant has increased the risks of the activity beyond the risks inherent in the sport’]; see also *Huffman v. City of Poway* (2000) 84 Cal.App.4th 975, 995, fn. 23 [101 Cal.Rptr.2d 325] [indicating it is for the court to determine whether defendant's conduct increased the risk inherent in participating in a particular sport, but that trial court may receive expert testimony on the customary practices in the sport to make that determination].~~ [¶] Our conclusion it is for the trier of fact to determine whether [defendant] breached his limited duty not to increase the risks inherent in the sport of volleyball finds solid support in the Supreme Court’s most recent sports injury, primary assumption of the risk decision, *Shin v. Ahn*, ~~*supra*, 42 Cal.4th 482~~, a case that postdates the appellate court decisions suggesting the issue is one for the court to resolve.” (*Luna, supra*, 169 Cal.App.4th at pp. 112–113, internal citations omitted.)

- “Although defendants generally have no legal duty to eliminate (or protect a plaintiff against) risks inherent in the sport itself, it is well established that defendants generally do have a duty to use due care not to increase the risks to a participant over and above those inherent in the sport. Thus, although a ski resort has no duty to remove moguls from a ski run, it clearly does have a duty to use due care to maintain its towropes in a safe, working condition so as not to expose skiers to an increased risk of harm. The cases establish that the latter type of risk, posed by a ski resort’s negligence, clearly is not a risk (inherent in the sport) that is assumed by a participant.” (*Knight, supra*, 3 Cal.4th at pp. 315–316.)
- “Under *Knight*, defendants had a duty *not to increase* the inherent risks to which spectators at professional baseball games are regularly exposed and which they assume. As a result, a triable issue of fact remained, namely whether the [defendants]’ mascot cavorting in the stands and distracting plaintiff’s attention, *while the game was in progress*, constituted a breach of that duty, i.e., constituted negligence in the form of increasing the inherent risk to plaintiff of being struck by a foul ball.” (*Lowe, supra*, 56 Cal.App.4th at p. 114, original italics.)
- “[T]hose responsible for maintaining athletic facilities have a ... duty not to increase the inherent risks, albeit in the context of businesses selling recreational opportunities.” (*Avila v. Citrus Community College Dist.* (2006) 38 Cal.4th 148, 162 [41 Cal.Rptr.3d 299, 131 P.3d 383], internal citation omitted.)
- “*Knight*, consistently with established case law, simply requires courts in each instance to examine the question of duty in light of the nature of the defendant’s activities and the relationship of the parties to that activity.” (*Parsons v. Crown Disposal Co.* (1997) 15 Cal.4th 456, 482 [63 Cal.Rptr.2d 291, 936 P.2d 70].)
- “Because primary assumption of risk focuses on the question of duty, it is *not* dependent on either the plaintiff’s implied consent to, or subjective appreciation of, the potential risk.” (*Griffin, supra*, 242 Cal.App.4th at p. 502, original italics.)
- “Defendants’ obligation not to increase the risks inherent in the activity included a duty to provide safe equipment for the trip, such as a safe and sound craft.” (*Ferrari v. Grand Canyon Dories* (1995) 32 Cal.App.4th 248, 255 [38 Cal.Rptr.2d 65].)

- “[A duty not to increase the risk] arises only if there is an ‘ “organized relationship” ’ between the defendants and the participant in relation to the sporting activity, such as exists between a recreational business operator and its patrons [I]mposing such a duty in the context of these types of relationships is justified because the defendants are ‘responsible for, or in control of, the conditions under which the [participant] engaged in the sport.’ ” However, ‘[t]his policy justification does not extend to a defendant wholly uninvolved with and unconnected to the sport,’ ... who neither ‘held out their driveway as an appropriate place to skateboard or in any other way represented that the driveway was a safe place for skateboarding.’ ” (*Bertsch, supra*, 247 Cal.App.4th at pp. 1208–1209, internal citations omitted.)

Secondary Sources

6 Witkin, Summary of California Law (11th ed. 2017) Torts, §§ 1496–1497, 1501–1508

Haning et al., California Practice Guide: Personal Injury, Ch. 3-D, *Mitigating Factors In Reduction Of Damages*, ¶ 3:1120 (The Rutter Group)

1 Levy et al., California Torts, Ch. 4, *Comparative Negligence, Assumption of the Risk, and Related Defenses*, § 4.03 (Matthew Bender)

23 California Forms of Pleading and Practice, Ch. 273, *Games, Sports, and Athletics*, § 273.31 (Matthew Bender)

16 California Points and Authorities, Ch. 165, *Negligence*, § 165.401 et seq. (Matthew Bender)

509. Abandonment of Patient

[Name of plaintiff] claims [name of defendant] was negligent because [he/she/nonbinary pronoun] did not give [name of patient] enough notice before withdrawing from the case. To succeed, [name of plaintiff] must prove both of the following:

1. That [name of defendant] withdrew from [name of patient]’s care and treatment; and
2. That [name of defendant] did not provide sufficient notice for [name of patient] to obtain another medical practitioner.

However, [name of defendant] was not negligent if [he/she/nonbinary pronoun] proves that [name of patient] consented to the withdrawal or declined further medical care.

New September 2003

Sources and Authority

~~As a general proposition~~, “a[A] physician who abandons a patient may do so ‘only ... after due notice, and an ample opportunity afforded to secure the presence of other medical attendance.’ ~~_[Citation.]~~” (*Payton v. Weaver* (1982) 131 Cal.App.3d 38, 45 [182 Cal.Rptr. 225], internal citations omitted.)

- “A physician cannot just walk away from a patient after accepting the patient for treatment. ... In the absence of the patient’s consent, the physician must notify the patient he is withdrawing and allow ample opportunity to secure the presence of another physician.” (*Hongsathavij v. Queen of Angels/Hollywood Presbyterian Medical Center* (1998) 62 Cal.App.4th 1123, 1138 [73 Cal.Rptr.2d 695].)
- “Abandonment as a theory warrants CACI No. 509 only where there is evidence that the physician has accepted responsibility for the patient and then has withdrawn without giving enough notice to ensure timely continuity of treatment.” (*Zannini v. Liker* (2022) 74 Cal.App.5th 610, 627 [289 Cal.Rptr.3d 712].)
- “When a competent, informed adult directs the withholding or withdrawal of medical treatment, even at the risk of hastening or causing death, medical professionals who respect that determination will not incur criminal or civil liability: the patient’s decision discharges the physician’s duty.” (*Thor v. Superior Court* (1993) 5 Cal.4th 725, 743 [21 Cal.Rptr.2d 357, 855 P.2d 375].)

Secondary Sources

California Tort Guide (Cont.Ed.Bar 3d ed.) § 9.8

3 Levy et al., California Torts, Ch. 31, *Liability of Physicians and Other Medical Practitioners*, § 31.42

(Matthew Bender)

600. Standard of Care

[A/An] [insert type of professional] is negligent if [he/she/nonbinary pronoun] fails to use the skill and care that a reasonably careful [insert type of professional] would have used in similar circumstances. This level of skill, knowledge, and care is sometimes referred to as “the standard of care.”

[You must determine the level of skill and care that a reasonably careful [insert type of professional] would use in similar circumstances based only on the testimony of the expert witnesses[, including [name of defendant],] who have testified in this case.]

New September 2003; Revised October 2004, December 2007, May 2020

Directions for Use

Use this instruction for all professional negligence cases other than professional medical negligence, for which CACI No. 501, *Standard of Care for Health Care Professionals*, should be used. See CACI No. 400, *Negligence—Essential Factual Elements*, for an instruction on the plaintiff’s burden of proof. The word “legal” or “professional” should be added before the word “negligence” in the first paragraph of CACI No. 400. (See *Sources and Authority* following CACI No. 500, *Medical Negligence—Essential Factual Elements*.)

Read the second paragraph if the standard of care must be established by expert testimony.

See CACI Nos. 219–221 on evaluating the credibility of expert witnesses.

If the defendant is a specialist in a field, this instruction should be modified to reflect that the defendant is held to the standard of care of a specialist. (*Wright v. Williams* (1975) 47 Cal.App.3d 802, 810 [121 Cal.Rptr. 194].) The standard of care for claims related to a specialist’s expertise is determined by expert testimony. (*Id.* at pp. 810–811.)

Whether an attorney-client relationship exists is a question of law. (*Responsible Citizens v. Superior Court* (1993) 16 Cal.App.4th 1717, 1733 [20 Cal.Rptr.2d 756].) If the evidence bearing upon this decision is in conflict, preliminary factual determinations are necessary. (*Ibid.*) Special instructions may need to be crafted for that purpose.

Sources and Authority

- “The elements of a cause of action in tort for professional negligence are (1) the duty of the professional to use such skill, prudence, and diligence as other members of his profession commonly possess and exercise; (2) a breach of that duty; (3) a proximate causal connection between the negligent conduct and the resulting injury; and (4) actual loss or damage resulting from the professional’s negligence.” (*Budd v. Nixen* (1971) 6 Cal.3d 195, 200 [98 Cal.Rptr. 849, 491 P.2d 433].)

- “Plaintiffs’ argument that CACI No. 600 altered their burden of proof is misguided in that it assumes that a ‘professional’ standard of care is inherently different than the standard in ordinary negligence cases. It is not. ‘With respect to professionals, their specialized education and training do not serve to impose an increased duty of care but rather are considered additional “circumstances” relevant to an overall assessment of what constitutes “ordinary prudence” in a particular situation.’ ‘Since the standard of care remains constant in terms of “ordinary prudence,” it is clear that denominating a cause of action as one for “professional negligence” does not transmute its underlying character. For substantive purposes, it merely serves to establish the basis by which “ordinary prudence” will be calculated and the defendant’s conduct evaluated.’ ” (*LAOSD Asbestos Cases* (2016) 5 Cal.App.5th 1022, 1050 [211 Cal.Rptr.3d 261], internal citation omitted.)
- “ ‘In addressing breach of duty, “the crucial inquiry is whether [the attorney’s] advice was so legally deficient when it was given that he [or she] may be found to have failed to use ‘such skill, prudence, and diligence as lawyers of ordinary skill and capacity commonly possess and exercise in the performance of the tasks which they undertake.’ ...” ... ’ ” (*Blanks v. Seyfarth Shaw LLP* (2009) 171 Cal.App.4th 336, 357 [89 Cal.Rptr.3d 710].)
- “[A]n attorney’s duty to exercise the skill and care that a reasonably careful attorney would use in similar circumstances extends to prelitigation investigation and evaluation of a client’s potential claims. ‘ “When one suspects that another has caused harm, a preliminary investigation is usually necessary in order to know whether one has a potential legal claim, evaluate the likelihood of success, and decide whether or not to assert it. Consequently, the investigation of a potential claim is normally and reasonably part of effective litigation, if not an essential part of it.” ’ With the duty to investigate comes an attorney’s duty to evaluate and advise clients of the risks of contemplated litigation.” (*Mireskandari v. Edwards Wildman Palmer LLP* (2022) 77 Cal.App.5th 247, 260 [292 Cal.Rptr.3d 410], internal citations omitted.)
- “[I]f the allegedly negligent conduct does not cause damage, it generates no cause of action in tort.” (*Moua v. Pittullo, Howington, Barker, Abernathy, LLP* (2014) 228 Cal.App.4th 107, 112–113 [174 Cal.Rptr.3d 662].)
- “[T]he issue of negligence in a legal malpractice case is ordinarily an issue of fact.” (*Blanks, supra*, 171 Cal.App.4th at p. 376.)
- “ ‘[T]he requirement that the plaintiff prove causation should not be confused with the method or means of doing so. Phrases such as “trial within a trial,” “case within a case,” ... and “better deal” scenario describe methods of proving causation, not the causation requirement itself or the test for determining whether causation has been established.’ ” (*Knutson v. Foster* (2018) 25 Cal.App.5th 1075, 1091 [236 Cal.Rptr.3d 473].)
- “Plaintiffs argue that ‘laying pipe is not a “profession.” ’ However, case law, statutes, and secondary sources suggest that the scope of those held to a ‘professional’ standard of care—a standard of care similar to others in their profession, as opposed to that of a ‘reasonable person’—is broad enough to encompass a wide range of specialized skills. As a general matter, ‘[t]hose undertaking to render expert services in the practice of a profession or trade are required to have and apply the skill, knowledge and competence ordinarily possessed by their fellow practitioners under similar

circumstances, and failure to do so subjects them to liability for negligence.’ ” (*LAOSD Asbestos Cases, supra*, 5 Cal.App.5th at p. 1050.)

- “It is well settled that an attorney is liable for malpractice when his negligent investigation, advice, or conduct of the client’s affairs results in loss of the client’s meritorious claim.” (*Gutierrez v. Mofid* (1985) 39 Cal.3d 892, 900 [218 Cal.Rptr. 313, 705 P.2d 886].)
- “[A] lawyer holding himself out to the public and the profession as specializing in an area of the law must exercise the skill, prudence, and diligence exercised by other specialists of ordinary skill and capacity specializing in the same field.” (*Wright, supra*, 47 Cal.App.3d at p. 810.)
- “To establish a [professional] malpractice claim, a plaintiff is required to present expert testimony establishing the appropriate standard of care in the relevant community. ‘Standard of care “ ‘is a matter peculiarly within the knowledge of experts; it presents the basic issue in a malpractice action and can only be proved by their testimony [citations]’ ” [Citation.]’ ” (*Quigley v. McClellan* (2013) 214 Cal.App.4th 1276, 1283 [154 Cal.Rptr.3d 719], internal citations omitted.)
- “California law does not require an expert witness to prove professional malpractice in all circumstances. ‘In professional malpractice cases, expert opinion testimony is required to prove or disprove that the defendant performed in accordance with the prevailing standard of care [citation], except in cases where the negligence is obvious to laymen.’ ” (*Ryan v. Real Estate of the Pacific, Inc.* (2019) 32 Cal.App.5th 637, 644–645 [244 Cal.Rptr.3d 129].)
- “Where ... the malpractice action is brought against an attorney holding himself out as a legal specialist and the claim against him is related to his expertise as such, then only a person knowledgeable in the specialty can define the applicable duty of care and opine whether it was met.” (*Wright, supra*, 47 Cal.App.3d at pp. 810–811, footnote and internal citations omitted.)
- “The standard is that of members of the profession ‘in the same or a similar locality under similar circumstances’ The duty encompasses both a knowledge of law and an obligation of diligent research and informed judgment.” (*Wright, supra*, 47 Cal.App.3d at p. 809, internal citations omitted; but see *Avivi v. Centro Medico Urgente Medical Center* (2008) 159 Cal.App.4th 463, 470–471 [71 Cal.Rptr.3d 707] [geographical location may be a factor to be considered, but by itself, does not provide a practical basis for measuring similar circumstances].)
- Failing to Act Competently. Rules of Professional Conduct, rule 3-110.

Secondary Sources

1 Witkin, California Procedure (5th ed. 2008) Attorneys, §§ [288307](#)

4 Witkin, California Procedure (5th ed. 2008) Pleadings, § [593598](#)

6 Witkin, Summary of California Law (11th ed. 2017) Torts, §§ 1124, 1125, 1128–1131

Vapnek, et al., California Practice Guide: Professional Responsibility, Ch. 1-A, *Sources Of Regulation Of Practice Of Law In California-Overview*, ¶ 1:39 (The Rutter Group)

Vapnek, et al., California Practice Guide: Professional Responsibility, Ch. 6-E, *Professional Liability*, ¶¶ 6:230–6:234 (The Rutter Group)

1 Levy et al., California Torts, Ch. 1, *Negligence: Duty and Breach*, § 1.31 (Matthew Bender)

3 Levy et al., California Torts, Ch. 30, *General Principles of Liability of Professionals*, §§ 30.12, 30.13, Ch. 32, *Liability of Attorneys*, § 32.13 (Matthew Bender)

7 California Forms of Pleading and Practice, Ch. 76, *Attorney Professional Liability*, §§ 76.50, 76.51 (Matthew Bender)

33 California Forms of Pleading and Practice, Ch. 380, *Negligence*, § 380.50 (Matthew Bender)

2A California Points and Authorities, Ch. 24A, *Attorneys at Law: Malpractice*, § 24A.20 et seq. (Matthew Bender)

2102. Presumed Measure of Damages for Conversion (Civ. Code, § 3336)

If you decide that [name of plaintiff] has proved [his/her/nonbinary pronoun/its] claim against [name of defendant], you also must decide how much money will reasonably compensate [name of plaintiff] for the harm. This compensation is called “damages.”

[Name of plaintiff] must prove the amount of [his/her/nonbinary pronoun/its] damages. However, [name of plaintiff] does not have to prove the exact amount of damages that will provide reasonable compensation for the harm. You must not speculate or guess in awarding damages.

The following are the specific items of damages claimed by [name of plaintiff]:

- 1. [The fair market value of the [insert item of personal property] at the time [name of defendant] wrongfully exercised control over it;]**

[or]

[Special damages resulting from [name of defendant]’s conduct;] [and]
- 2. Reasonable compensation for the time and money spent by [name of plaintiff] in attempting to recover the [insert item of personal property]; [and]**
- 3. [Emotional distress suffered by [name of plaintiff] as a result of [name of defendant]’s conduct.]**

[In order to recover special damages, [name of plaintiff] must prove:

- 1. That [describe special circumstances that require a measure of damages other than value];**
- 2. That it was reasonably foreseeable that special injury or harm would result from the conversion; and**
- 3. That reasonable care on [name of plaintiff]’s part would not have prevented the loss.]**

[“Fair market value” is the highest price that a willing buyer would have paid to a willing seller, assuming:

- 1. That there is no pressure on either one to buy or sell; and**
 - 2. That the buyer and seller know all the uses and purposes for which the [insert item] is reasonably capable of being used.]**
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Directions for Use

The third element of listed damages, emotional distress, is bracketed because it appears that such damages are recoverable only if the second alternative measure of damages stated in the first paragraph of Civil Code section 3336 applies. (See *Gonzales v. Pers. Storage* (1997) 56 Cal.App.4th 464, 477 [65 Cal.Rptr.2d 473].)

Sources and Authority

- Damages for Wrongful Conversion. Civil Code section 3336.
- Conversion of Negotiable Instruments. Commercial Code section 3420.

Measure of Compensation for Property Taken. Code of Civil Procedure section 1263.320(a).

provides: “The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.”

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- “[W]e are of the opinion that section 3337 can only be held to apply to a situation where the property was voluntarily applied by the party guilty of conversion to the benefit of the injured party, and can have no application to a situation such as here where the application was compelled by a legal duty.” (*Goldberg v. List* (1938) 11 Cal.2d 389, 393 [79 P.2d 1087].)
- “Although the first part of section 3336 appears to provide for alternative measures of recovery, the first of the two measures, namely the value of the property converted at the time and place of conversion with interest from that time, is generally considered to be the appropriate measure of damages in a conversion action. The determination of damages under the alternative provision is resorted to only where the determination on the basis of value at the time of conversion would be manifestly unjust.” (*Myers v. Stephens* (1965) 233 Cal.App.2d 104, 116 [43 Cal.Rptr. 420], internal citations omitted.)
- “As a general rule, the value of the converted property is the appropriate measure of damages, and resort to the alternative occurs only where a determination of damages on the basis of value would be manifestly unjust. Accordingly, a person claiming damages under the alternative provision must plead and prove special circumstances that require a measure of damages other than value, and the jury must determine whether it was reasonably foreseeable that special injury or damage would result from the conversion.” (*Lueter v. State of California* (2002) 94 Cal.App.4th 1285, 1302 [115 Cal.Rptr.2d 68], internal citations omitted.)
- “The damage measures set forth in the first paragraph of section 3336 are in the alternative. The first alternative is to compensate for the value of the property at the time of conversion with interest from

the time of the taking. The second alternative is compensation in a sum equal to the amount of loss legally caused by the conversion and which could have been avoided with a proper degree of prudence. Both of these alternatives are in addition to the damage element for the time spent pursuing the converted property set forth in the second paragraph of section 3336.” (*Moreno v. Greenwood Auto Center* (2001) 91 Cal.App.4th 201, 209 [110 Cal.Rptr.2d 177], internal citations omitted.)

- “Conversion damages are calculated based on the detriment caused to the plaintiff. Such detriment caused by wrongful conversion of personal property is presumed to be the ‘value of the property at the time of the conversion, with the interest from that time, or, an amount sufficient to indemnify the party injured for the loss which is the natural, reasonable and proximate result of the wrongful act complained of and which a proper degree of prudence on his part would not have averted.’ ‘Money may be the subject of conversion if the claim involves a specific, identifiable sum.’ ” (*Greif v. Sanin* (2022) 74 Cal.App.5th 412, 449 [289 Cal.Rptr.3d 484], internal citations omitted.)
- “Civil Code section 3336 sets out the presumptive measure of damages in conversion, which is rebuttable, save and except when section 3337 applies. Under Civil Code section 3337, a defendant cannot rebut the presumption by claiming that he applied the converted property to plaintiff’s benefit when he took unlawful possession of the property from the beginning. Consequently, the effect of section 3337 is to prevent mitigation when property is stolen from the plaintiff and subsequently applied to his benefit. In this situation, the defendant will not be able to claim that his conversion benefited plaintiff; he will thereby be prevented from claiming an offset derived from his original wrong. In contrast to this situation, if the particular facts of a case indicate, as in the instant case, that the possession was lawful before the conversion occurred ... Civil Code section 3337 is inapplicable, and a converter is not precluded from claiming mitigation of damages.” (*Dakota Gardens Apartment Investors “B” v. Pudwill* (1977) 75 Cal.App.3d 346, 351-352 [142 Cal.Rptr. 126].)
- “[W]e conclude that notwithstanding further developments in the law of negligence, damages for emotional distress growing out of a defendant’s conversion of personal property are recoverable.” (*Gonzales, supra*, 56 Cal.App.4th at p. 477, internal citations omitted.)
- “In the absence of special circumstances the appropriate measure of damages for conversion of personal property is the fair market value of that property plus interest from the date of conversion, the standard first listed in section 3336, Civil Code. However, where proof establishes an injury beyond that which would be adequately compensated by the value of the property and interest, the court may award such amounts as will indemnify for all proximate reasonable loss caused by the wrongful act. Where damages for loss of use exceeds the legal rate of interest, it is appropriate to award the former, but not both.” (*Lint v. Chisholm* (1981) 121 Cal.App.3d 615, 624-625 [177 Cal.Rptr. 314], internal citations omitted.)
- “ ‘To entitle a party to such compensation the [evidence] should tend to show that money was properly paid out and time properly lost in pursuit of the property, and how much.’ Such evidence should be definite and certain. Expenses ‘incurred in preparation for litigation and not in pursuit of property’ cannot be allowed as damages under Civil Code section 3336. Additionally, any such compensation must be fair, i.e., reasonable.” (*Haines v. Parra* (1987) 193 Cal.App.3d 1553, 1559 [239 Cal.Rptr. 178], internal citations omitted.)

- “[A]lthough good faith and mistake are not defenses to an action for conversion, the plaintiff’s damages will be reduced if the defendant returns the property or the plaintiff otherwise recovers the property.” (*Krusi v. Bear, Stearns & Co.* (1983) 144 Cal.App.3d 664, 673 [192 Cal.Rptr. 793], internal citations omitted.)
- “Causes of action for conversion and trespass support an award for exemplary damages.” (*Krieger v. Pacific Gas & Electric Co.* (1981) 119 Cal.App.3d 137, 148 [173 Cal.Rptr. 751], internal citation omitted.)
- “Ordinarily ‘value of the property’ at the time of the conversion is determined by its market value at the time. However, ‘[w]here certain property has a peculiar value to a person recovering damages for deprivation thereof, or injury thereto, that may be deemed to be its value ... against a willful wrongdoer.’ ” (*In re Brian S.* (1982) 130 Cal.App.3d 523, 530 [181 Cal.Rptr. 778], internal citations omitted.)
- “In an action for damages for conversion, it is the rule that the plaintiff, although owning but a limited or qualified interest in the property, may, as against a stranger who has no ownership therein, recover the full value of the property converted.” (*Camp v. Ortega* (1962) 209 Cal.App.2d 275, 286 [25 Cal.Rptr. 873], internal citations omitted.)
- “A plaintiff seeking recovery under the alternative provision of the statute must therefore plead and prove the existence of ‘special circumstances which require a different measure of damages to be applied.’ Having done so, the trier of fact must then determine ‘whether it was reasonably foreseeable to a prudent person, having regard for the accompanying circumstances, that injury or damage would likely result from his wrongful act.’ ” (*Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 215 [193 Cal.Rptr. 322], internal citations omitted.)
- “Defendants contend that the anticipated loss of profits is not ‘the natural, reasonable and proximate result of the wrongful act complained of,’ within the meaning of section 3336. Although no California case which has applied the alternative measure of damages in a conversion case has specifically defined this language, we are satisfied that its meaning is synonymous with the term ‘proximate cause’ or ‘legal cause.’ These terms mean, in essence, ‘that there be some reasonable connection between the act or omission of the defendant and the damage which the plaintiff has suffered.’ In determining whether this connection exists, the question is whether it was reasonably foreseeable to a prudent person, having regard for the accompanying circumstances, that injury or damage would likely result from his wrongful act. This question being one of fact to be determined generally by the trier of fact.” (*Myers, supra*, 233 Cal.App.2d at pp. 119–120, internal citations omitted.)
- “In exceptional circumstances, to avoid injustice, loss of profits may be the measure.” (*Newhart v. Pierce* (1967) 254 Cal.App.2d 783, 794 [62 Cal.Rptr. 553], internal citation omitted.)
- ~~Code of Civil Procedure section 1263.320(a) provides: “The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and~~

~~available.”~~

Secondary Sources

6 Witkin, Summary of California Law (11th ed. 2017) Torts, § 1906

4 Levy et al., California Torts, Ch. 50, *Damages*, §§ 50.01–50.03 (Matthew Bender)

13 California Forms of Pleading and Practice, Ch. 150, *Conversion*, §§ 150.10, [150.16](#), 150.40–150.41 (Matthew Bender)

5 California Points and Authorities, Ch. 51, *Conversion* (Matthew Bender)

2430. Wrongful Discharge in Violation of Public Policy—Essential Factual Elements

[Name of plaintiff] claims [he/she/nonbinary pronoun] was discharged from employment for reasons that violate a public policy. It is a violation of public policy [specify claim in case, e.g., to discharge someone from employment for refusing to engage in price fixing]. To establish this claim, [name of plaintiff] must prove all of the following:

1. That [name of plaintiff] was employed by [name of defendant];
 2. That [name of defendant] discharged [name of plaintiff];
 3. That [insert alleged violation of public policy, e.g., “[name of plaintiff]’s refusal to engage in price fixing”] was a substantial motivating reason for [name of plaintiff]’s discharge;
 4. That [name of plaintiff] was harmed; and
 5. That the discharge was a substantial factor in causing [name of plaintiff] harm.
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New September 2003; Revised June 2013, June 2014, December 2014, November 2018, May 2020

Directions for Use

The judge should determine whether the purported reason for firing the plaintiff would amount to a violation of public policy. (See *Gantt v. Sentry Insurance* (1992) 1 Cal.4th 1083, 1092 [4 Cal.Rptr.2d 874, 824 P.2d 680]; overruled on other grounds in *Green v. Ralee Engineering Co.* (1998) 19 Cal.4th 66, 80 fn. 6 [78 Cal. Rptr.2d 16, 960 P.2d 1046].) The jury should then be instructed that the alleged conduct would constitute a public-policy violation if proved.

Note that there are two causation elements. First, there must be causation between the public policy violation and the discharge (element 3). This instruction uses the term “substantial motivating reason” to express this causation element. “[S]ubstantial motivating reason” has been held to be the appropriate standard for cases alleging termination in violation of public policy. (*Alamo v. Practice Management Information Corp.* (2013) 219 Cal.App.4th 466, 479 [161 Cal.Rptr.3d 758]; see *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 232 [152 Cal.Rptr.3d 392, 294 P.3d 49]; CACI No. 2507, “*Substantial Motivating Reason*” Explained.) Element 5 then expresses a second causation requirement; that the plaintiff was harmed as a result of the wrongful discharge.

If plaintiff alleges the plaintiff was forced or coerced to resign, then CACI No. 2431, *Constructive Discharge in Violation of Public Policy—Plaintiff Required to Violate Public Policy*, or CACI No. 2432, *Constructive Discharge in Violation of Public Policy—Plaintiff Required to Endure Intolerable Conditions That Violate Public Policy*, should be given instead. See also CACI No. 2510, “*Constructive Discharge*” Explained.

This instruction may be modified for adverse employment actions other than discharge, for example demotion, if done in violation of public policy. (See *Garcia v. Rockwell Internat. Corp.* (1986) 187 Cal.App.3d 1556, 1561 [232 Cal.Rptr. 490], disapproved on other grounds in *Gantt v. Sentry Ins.* (1992), supra, 1 Cal.4th 1083, at p. 1093 [4 Cal.Rptr.2d 874, 824 P.2d 680] [public policy forbids retaliatory action taken by employer against employee who discloses information regarding employer's violation of law to government agency].) See also CACI No. 2509, "Adverse Employment Action" Explained.

For an instruction on damages, give CACI No. 3903P, *Damages From Employer for Wrongful Discharge (Economic Damage)*.

Sources and Authority

- “[W]hile an at-will employee may be terminated for no reason, or for an arbitrary or irrational reason, there can be no right to terminate for an unlawful reason or a purpose that contravenes fundamental public policy. Any other conclusion would sanction lawlessness, which courts by their very nature are bound to oppose.” (*Casella v. SouthWest Dealer Services, Inc.* (2007) 157 Cal.App.4th 1127, 1138–1139 [69 Cal.Rptr.3d 445], internal citations omitted.)
- “[W]hen an employer’s discharge of an employee violates fundamental principles of public policy, the discharged employee may maintain a tort action and recover damages traditionally available in such actions.” (*Tameny v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167, 170 [164 Cal.Rptr. 839, 610 P.2d 1330].)
- ~~“The elements of a claim for wrongful discharge in violation of public policy are (1) an employer-employee relationship, (2) the employer terminated the plaintiff’s employment, (3) the termination was substantially motivated by a violation of public policy, and (4) the discharge caused the plaintiff harm.”~~ (*Yau v. Allen* (2014) 229 Cal.App.4th 144, 154 [176 Cal.Rptr.3d 824].) “The elements of a claim for wrongful discharge in violation of public policy are (1) an employer-employee relationship, (2) the employer terminated the plaintiff’s employment, (3) the termination was substantially motivated by a violation of public policy, and (4) the discharge caused the plaintiff harm.” (*Garcia-Brower v. Premier Automotive Imports of CA, LLC* (2020) 55 Cal.App.5th 961, 973 [269 Cal.Rptr.3d 856], internal citation omitted.)
- “[T]his court established a set of requirements that a policy must satisfy to support a tortious discharge claim. First, the policy must be supported by either constitutional or statutory provisions. Second, the policy must be ‘public’ in the sense that it ‘inures to the benefit of the public’ rather than serving merely the interests of the individual. Third, the policy must have been articulated at the time of the discharge. Fourth, the policy must be ‘fundamental’ and ‘substantial.’” (*Stevenson v. Superior Court* (1997) 16 Cal.4th 880, 889–890 [66 Cal.Rptr.2d 888, 941 P.2d 1157], footnote omitted.)
- “Policies are not ‘public’ (and thus do not give rise to a common law tort claim) when they are derived from statutes that ‘simply regulate conduct between private individuals, or impose requirements whose fulfillment does not implicate fundamental public policy concerns.’” (*Diego v. Pilgrim United Church of Christ* (2014) 231 Cal.App.4th 913, 926 [180 Cal.Rptr.3d 359].)

- “[T]he cases in which violations of public policy are found generally fall into four categories: (1) refusing to violate a statute; (2) performing a statutory obligation (3) exercising a statutory right or privilege; and (4) reporting an alleged violation of a statute of public importance.” (*Gantt, supra*, 1 Cal.4th at pp. 1090–1091, internal citations and footnote omitted, overruled on other grounds in *Green v. Ralee Engineering Co. (1998), supra*, 19 Cal.4th 66, at p. 80, fn. 6 [78 Cal.Rptr.2d 16, 960 P.2d 1046]; accord *Stevenson, supra*, 16 Cal.4th at p. 889.)
- “[T]ermination of an employee most clearly violates public policy when it contravenes the provision of a statute forbidding termination for a specified reason” (*Diego, supra*, 231 Cal.App.4th at p. 926)
- “[Discharge because of employee’s] [r]efusal to violate a governmental regulation may also be the basis for a tort cause of action where the administrative regulation enunciates a fundamental public policy and is authorized by statute.” (*Scott v. Phoenix Schools, Inc. (2009)* 175 Cal.App.4th 702, 708–709 [96 Cal.Rptr.3d 159].)
- “In the context of a tort claim for wrongful discharge, tethering public policy to specific constitutional or statutory provisions serves not only to avoid judicial interference with the legislative domain, but also to ensure that employers have adequate notice of the conduct that will subject them to tort liability to the employees they discharge” (*Stevenson, supra*, 16 Cal.4th at p. 889.)
- “[A]n employee need not prove an actual violation of law; it suffices if the employer fired him for reporting his ‘reasonably based suspicions’ of illegal activity.” (*Green, supra*, 19 Cal.4th at p. 87, internal citation omitted.)
- “[A]n employer’s authority over its employee does not include the right to demand that the employee commit a criminal act to further its interests, and an employer may not coerce compliance with such unlawful directions by discharging an employee who refuses to follow such an order” (*Tameny, supra*, 27 Cal.3d at p. 178.)
- “[T]here is a ‘fundamental public interest in a workplace free from illegal practices’ ‘[T]he public interest is in a lawful, not criminal, business operation. Attainment of this objective requires that an employee be free to call his or her employer’s attention to illegal practices, so that the employer may prevent crimes from being committed by misuse of its products by its employees.’ ” (*Yau, supra*, 229 Cal.App.4th at p. 157 v. *Allen (2014)* 229 Cal.App.4th 144, 157 [176 Cal.Rptr.3d 824].)
- “Whether an employer has conducted an adequate investigation before dismissing an employee for an unlawful purpose is generally a question of fact for the jury.” (*Garcia-Brower, supra*, 55 Cal.App.5th at p. 974.)
- “An action for wrongful termination in violation of public policy ‘can only be asserted against *an employer*. An individual who is not an employer cannot commit the tort of wrongful discharge in violation of public policy; rather, he or she can only be the agent by which *an employer* commits that tort.’ ” (*Kim v. Konad USA Distribution, Inc. (2014)* 226 Cal.App.4th 1336, 1351 [172 Cal.Rptr.3d 686], original italics.)

- ~~Employees in both the private and public sector may assert this claim. (See *Shoemaker v. Myers* (1992) 2 Cal.App.4th 1407 [4 Cal.Rptr.2d 203].)~~
- “Sex discrimination in employment may support a claim of tortious discharge in violation of public policy.” (*Kelley v. The Conco Cos.* (2011) 196 Cal.App.4th 191, 214 [126 Cal.Rptr.3d 651].)
- “In sum, a wrongful termination against public policy common law tort based on sexual harassment can be brought against an employer of any size.” (*Kim, supra*, 226 Cal.App.4th at p. 1351.)
- “To establish a claim for wrongful termination in violation of public policy, an employee must prove causation. (See CACI No. 2430 [using phrase ‘substantial motivating reason’ to express causation].) Claims of whistleblower harassment and retaliatory termination may not succeed where a plaintiff ‘cannot demonstrate the required nexus between his reporting of alleged statutory violations and his allegedly adverse treatment by [the employer].’ ” (*Ferrick v. Santa Clara University* (2014) 231 Cal.App.4th 1337, 1357 [181 Cal.Rptr.3d 68].)
- “It would be nonsensical to provide a different standard of causation in FEHA cases and common law tort cases based on public policies encompassed by FEHA.” (*Mendoza v. Western Medical Center Santa Ana* (2014) 222 Cal.App.4th 1334, 1341 [166 Cal.Rptr.3d 720].)
- “If claims for wrongful termination in violation of public policy must track FEHA, it necessarily follows that jury instructions pertinent to causation and motivation must be the same for both. Accordingly, we conclude the trial court did not err in giving the instructions set forth in the CACI model jury instructions.” (*Davis v. Farmers Ins. Exchange* (2016) 245 Cal.App.4th 1302, 1323 [200 Cal.Rptr.3d 315].)
- “Under California law, if an employer did not violate FEHA, the employee's claim for wrongful termination in violation of public policy necessarily fails.” (*Featherstone v. Southern California Permanente Medical Group* (2017) 10 Cal.App.5th 1150, 1169 [217 Cal.Rptr.3d 258].)
- “FEHA’s policy prohibiting disability discrimination in employment is sufficiently substantial and fundamental to support a claim for wrongful termination in violation of public policy.” (*Rope v. Auto-Chlor System of Washington, Inc.* (2013) 220 Cal.App.4th 635, 660 [163 Cal.Rptr.3d 392].)
- “Although the fourth cause of action references FEHA as one source of the public policy at issue, this is not a statutory FEHA cause of action. FEHA does not displace or supplant common law tort claims for wrongful discharge.” (*Kim, supra*, 226 Cal.App.4th at p. 1349.)
- “[T]o the extent the trial court concluded Labor Code section 132a is the exclusive remedy for work-related injury discrimination, it erred. The California Supreme Court held ‘[Labor Code] section 132a does not provide an exclusive remedy and does not preclude an employee from pursuing FEHA and common law wrongful discharge remedies.’ ” (*Prue v. Brady Co./San Diego, Inc.* (2015) 242 Cal.App.4th 1367, 1381 [196 Cal.Rptr.3d 68].)
- “California’s minimum wage law represents a fundamental policy for purposes of a claim for

wrongful termination or constructive discharge in violation of public policy.” (*Vasquez v. Franklin Management Real Estate Fund, Inc.* (2013) 222 Cal.App.4th 819, 831–832 [166 Cal.Rptr.3d 242].)

- “ ‘Labor Code section 1102.5, subdivision (b), which prohibits employer retaliation against an employee who reports a reasonably suspected violation of the law to a government or law enforcement agency, reflects the broad public policy interest in encouraging workplace “whistleblowers,” who may without fear of retaliation report concerns regarding an employer’s illegal conduct. This public policy is the modern day equivalent of the long-established duty of the citizenry to bring to public attention the doings of a lawbreaker. [Citation.] ... ’ ” (*Ferrick, supra*, 231 Cal.App.4th at p. 1355.)
- “That [defendant]’s decision not to renew her contract for an additional season *might* have been influenced by her complaints about an unsafe working condition ... does not change our conclusion in light of the principle that a decision not to renew a contract set to expire is not actionable in tort.” (*Touchstone Television Productions v. Superior Court* (2012) 208 Cal.App.4th 676, 682 [145 Cal.Rptr.3d 766], original italics.)
- “ ‘ “[P]ublic policy’ as a concept is notoriously resistant to precise definition, and ... courts should venture into this area, if at all, with great care” [Citation.] Therefore, *when the constitutional provision or statute articulating a public policy also includes certain substantive limitations in scope or remedy, these limitations also circumscribe the common law wrongful discharge cause of action.* Stated another way, the common law cause of action cannot be broader than the constitutional provision or statute on which it depends, and therefore it ‘presents no impediment to employers that operate within the bounds of law.’ ” (*Dutra v. Mercy Medical Center Mt. Shasta* (2012) 209 Cal.App.4th 750, 756 [146 Cal.Rptr.3d 922], original italics.)

Secondary Sources

3 Witkin, Summary of California Law (11th ed. 2017) Agency and Employment, §§ [272255 et seq.](#)

Chin et al., California Practice Guide: Employment Litigation, Ch. 5-(I)B, *Wrongful Discharge In Violation Of Public Policy (Tameny Claims)*, ¶¶ 5:47, 5:50, 5:70, 5:105, 5:115, 5:150, 5:151, 5:170, 5:195, 5:220, 5:235 (The Rutter Group)

1 Wrongful Employment Termination Practice (Cont.Ed.Bar 2d ed.) Public Policy Violations, § 5.45

4 Wilcox, California Employment Law, Ch. 60, *Liability for Wrongful Termination and Discipline*, § 60.04 (Matthew Bender)

21 California Forms of Pleading and Practice, Ch. 249, *Employment Law: Termination and Discipline*, §§ 249.12, 249.50–249.52 (Matthew Bender)

10 California Points and Authorities, Ch. 100, *Employer and Employee: Wrongful Termination and Discipline*, §§ [100.52100.41](#)–100.61B (Matthew Bender)

California Civil Practice: Employment Litigation §§ 6:23–6:25 (Thomson Reuters)

2500. Disparate Treatment—Essential Factual Elements (Gov. Code, § 12940(a))

[Name of plaintiff] **claims that** *[name of defendant]* **wrongfully discriminated against** *[him/her/nonbinary pronoun]*. **To establish this claim, *[name of plaintiff]* must prove all of the following:**

1. **That *[name of defendant]* was *[an employer/[other covered entity]]*;**
2. **That *[name of plaintiff]* *[was an employee of [name of defendant]/applied to [name of defendant] for a job/[describe other covered relationship to defendant]]*;**
3. ***[That [name of defendant] [discharged/refused to hire/[other adverse employment action]] [name of plaintiff];]***

[or]

[That [name of defendant] subjected [name of plaintiff] to an adverse employment action;]

[or]

[That [name of plaintiff] was constructively discharged;]

4. **That *[name of plaintiff]*'s *[protected status—for example, race, gender, or age]* was a **substantial motivating reason for *[name of defendant]*'s *[decision to [discharge/refuse to hire/[other adverse employment action]] [name of plaintiff]/conduct]*;****
 5. **That *[name of plaintiff]* was harmed; and**
 6. **That *[name of defendant]*'s conduct was a substantial factor in causing *[name of plaintiff]*'s harm.**
-

New September 2003; Revised April 2009, June 2011, June 2012, June 2013, May 2020

Directions for Use

This instruction is intended for use when a plaintiff alleges disparate treatment discrimination under the FEHA against an employer or other covered entity. Disparate treatment occurs when an employer treats an individual less favorably than others because of the individual's protected status. In contrast, disparate impact (the other general theory of discrimination) occurs when an employer has an employment practice that appears neutral but has an adverse impact on members of a protected group. For disparate impact claims, see CACI No. 2502, *Disparate Impact—Essential Factual Elements*.

If element 1 is given, the court may need to instruct the jury on the statutory definition of “employer”

under the FEHA. Other covered entities under the FEHA include labor organizations, employment agencies, and apprenticeship training programs. (See Gov. Code, § 12940(a)–(d).)

Read the first option for element 3 if there is no dispute as to whether the employer’s acts constituted an adverse employment action. Read the second option and also give CACI No. 2509, “*Adverse Employment Action*” *Explained*, if whether there was an adverse employment action is a question of fact for the jury. If constructive discharge is alleged, give the third option for element 3 and also give CACI No. 2510, “*Constructive Discharge*” *Explained*. Select “conduct” in element 4 if either the second or third option is included for element 3.

Note that there are two causation elements. There must be a causal link between the discriminatory animus and the adverse action (see element 4), and there must be a causal link between the adverse action and the damage (see element 6). (See *Mamou v. Trendwest Resorts, Inc.* (2008) 165 Cal.App.4th 686, 713 [81 Cal.Rptr.3d 406].)

Element 4 requires that discrimination based on a protected classification be a substantial motivating reason for the adverse action. (See *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 232 [152 Cal.Rptr.3d 392, 294 P.3d 49]; see also CACI No. 2507, “*Substantial Motivating Reason*” *Explained*.) Modify element 4 if plaintiff was not actually a member of the protected class, but alleges discrimination because the plaintiff was perceived to be a member, or associated with someone who was or was perceived to be a member, of the protected class. (See Gov. Code, § 12926(o).)

For damages instructions, see applicable instructions on tort damages.

Sources and Authority

- Discrimination Prohibited Under Fair Employment and Housing Act. Government Code section 12940(a).
- Perception and Association. Government Code section 12926(o).
- “Race” and “Protective Hairstyles.” Government Code section 12926(w), (x).
- “[C]onceptually the theory of ‘[disparate] treatment’ ... is the most easily understood type of discrimination. The employer simply treats some people less favorably than others because of their race, color, religion, sex or national origin.” (*Mixon v. Fair Employment and Housing Com.* (1987) 192 Cal.App.3d 1306, 1317 [237 Cal.Rptr. 884], quoting *Teamsters v. United States* (1977) 431 U.S. 324, 335–336, fn. 15 [97 S.Ct. 1843, 52 L.Ed.2d 396].)
- “California has adopted the three-stage burden-shifting test for discrimination claims set forth in *McDonnell Douglas Corp. v. Green* (1973) 411 U.S. 792 [93 S.Ct. 1817, 36 L.Ed. 2d 668]. ‘This so-called *McDonnell Douglas* test reflects the principle that direct evidence of intentional discrimination is rare, and that such claims must usually be proved circumstantially. Thus, by successive steps of increasingly narrow focus, the test allows discrimination to be inferred from facts that create a reasonable likelihood of bias and are not satisfactorily explained.’ ” (*Sandell v. Taylor-Listug, Inc.* (2010) 188 Cal.App.4th 297, 307 [115 Cal.Rptr.3d 453], internal citations omitted.)

- “The *McDonnell Douglas* framework was designed as ‘an analytical tool for use by the trial judge in applying the law, not a concept to be understood and applied by the jury in the factfinding process.’” (*Abed v. Western Dental Services, Inc.* (2018) 23 Cal.App.5th 726, 737 [233 Cal.Rptr.3d 242].)
- “At trial, the *McDonnell Douglas* test places on the plaintiff the initial burden to establish a prima facie case of discrimination. This step is designed to eliminate at the outset the most patently meritless claims, as where the plaintiff is not a member of the protected class or was clearly unqualified, or where the job he sought was withdrawn and never filled. While the plaintiff’s prima facie burden is ‘not onerous’, he must at least show ‘actions taken by the employer from which one can infer, if such actions remain unexplained, that it is more likely than not that such actions were ‘based on a [prohibited] discriminatory criterion . . .’ . . .’” (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 354–355 [100 Cal.Rptr.2d 352, 8 P.3d 1089], internal citations omitted.)
- “If, at trial, the plaintiff establishes a prima facie case, a presumption of discrimination arises. This presumption, though ‘rebuttable,’ is ‘legally mandatory.’ Thus, in a trial, ‘[i]f the trier of fact believes the plaintiff’s evidence, and if the employer is silent in the face of the presumption, the court must enter judgment for the plaintiff because no issue of fact remains in the case.’ [¶] Accordingly, at this trial stage, the burden shifts to the employer to rebut the presumption by producing admissible evidence, sufficient to ‘raise[] a genuine issue of fact’ and to ‘justify a judgment for the [employer],’ that its action was taken for a legitimate, nondiscriminatory reason. [¶] If the employer sustains this burden, the presumption of discrimination disappears. The plaintiff must then have the opportunity to attack the employer’s proffered reasons as pretexts for discrimination, or to offer any other evidence of discriminatory motive. In an appropriate case, evidence of dishonest reasons, considered together with the elements of the prima facie case, may permit a finding of prohibited bias. The ultimate burden of persuasion on the issue of actual discrimination remains with the plaintiff.” (*Guz, supra*, 24 Cal.4th at pp. 355–356, internal citations omitted.)
- “The trial court decides the first two stages of the *McDonnell Douglas* test as questions of law. If the plaintiff and defendant satisfy their respective burdens, the presumption of discrimination disappears and the question whether the defendant unlawfully discriminated against the plaintiff is submitted to the jury to decide whether it believes the defendant’s or the plaintiff’s explanation.” (*Swanson v. Morongo Unified School Dist.* (2014) 232 Cal.App.4th 954, 965 [181 Cal.Rptr.3d 553].)
- “We conclude that where a plaintiff establishes a prima facie case of discrimination based on a failure to interview her for open positions, the employer must do more than produce evidence that the hiring authorities did not know why she was not interviewed. Nor is it enough for the employer, in a writ petition or on appeal, to cobble together after-the-fact possible nondiscriminatory reasons. While the stage-two burden of production is not onerous, the employer must clearly state the actual nondiscriminatory reason for the challenged conduct.” (*Dept. of Corrections & Rehabilitation v. State Personnel Bd.* (2022) 74 Cal.App.5th 908, 930 [290 Cal.Rptr.3d 70], original italics.)
- “To succeed on a disparate treatment claim at trial, the plaintiff has the initial burden of establishing a prima facie case of discrimination, to wit, a set of circumstances that, if unexplained, permit an inference that it is more likely than not the employer intentionally treated the employee less favorably than others on prohibited grounds. Based on the inherent difficulties of showing intentional

discrimination, courts have generally adopted a multifactor test to determine if a plaintiff was subject to disparate treatment. The plaintiff must generally show that: he or she was a member of a protected class; was qualified for the position he sought; suffered an adverse employment action, and there were circumstances suggesting that the employer acted with a discriminatory motive. [¶] On a defense motion for summary judgment against a disparate treatment claim, the defendant must show either that one of these elements cannot be established or that there were one or more legitimate, nondiscriminatory reasons underlying the adverse employment action.” (*Jones v. Department of Corrections* (2007) 152 Cal.App.4th 1367, 1379 [62 Cal.Rptr.3d 200], internal citations omitted.)

- “Although ‘[t]he specific elements of a prima facie case may vary depending on the particular facts,’ the plaintiff in a failure-to-hire case ‘[g]enerally ... must provide evidence that (1) he [or she] was a member of a protected class, (2) he [or she] was qualified for the position he [or she] sought ... , (3) he [or she] suffered an adverse employment action, such as ... denial of an available job, and (4) some other circumstance suggests discriminatory motive,’ such as that the position remained open and the employer continued to solicit applications for it.” (*Abed, supra*, 23 Cal.App.5th at p. 736.)
- “Although we recognize that in most cases, a plaintiff who did not apply for a position will be unable to prove a claim of discriminatory failure to hire, a job application is not an *element* of the claim.” (*Abed, supra*, 23 Cal.App.5th at p. 740, original italics.)
- “Employers who lie about the existence of open positions are not immune from liability under the FEHA simply because they are effective in keeping protected persons from applying.” (*Abed, supra*, 23 Cal.App.5th at p. 741.)
- “[Defendant] still could shift the burden to [plaintiff] by presenting admissible evidence showing a legitimate, nondiscriminatory reason for terminating her. ‘It is the employer’s honest belief in the stated reasons for firing an employee and not the objective truth or falsity of the underlying facts that is at issue in a discrimination case.’ ... ‘[I]f nondiscriminatory, [the employer’s] true reasons need not necessarily have been wise or correct. ... While the objective soundness of an employer’s proffered reasons supports their credibility ... , the ultimate issue is simply whether the employer acted with a *motive to discriminate illegally*. Thus, “legitimate” reasons ... in this context are reasons that are *facially unrelated to prohibited bias*, and which, if true, would thus preclude a finding of *discrimination*. ...’ ” (*Wills v. Superior Court* (2011) 195 Cal.App.4th 143, 170–171 [125 Cal.Rptr.3d 1], original italics, internal citations omitted.)
- “[W]e hold that a residency program’s claim that it terminated a resident for academic reasons is not entitled to deference. ... [T]he jury should be instructed to evaluate, without deference, whether the program terminated the resident for a genuine academic reason or because of an impermissible reason such as retaliation or the resident’s gender.” (*Khoiny v. Dignity Health* (2022) 76 Cal.App.5th 390, 404 [291 Cal.Rptr.3d 496].)
- “The burden therefore shifted to [plaintiff] to present evidence showing the [defendant] engaged in intentional discrimination. To meet her burden, [plaintiff] had to present evidence showing (1) the [defendant]’s stated reason for not renewing her contract was untrue or pretextual; (2) the [defendant] acted with a discriminatory animus in not renewing her contract; or (3) a combination of the two.” (*Swanson, supra*, 232 Cal.App.4th at p. 966.)

- “Evidence that an employer’s proffered reasons were pretextual does not necessarily establish that the employer intentionally discriminated: ‘ “[I]t is not enough ... to disbelieve the employer; the factfinder must believe the plaintiff’s explanation of intentional discrimination.’ ” ’ However, evidence of pretext is important: ‘ “[A] plaintiff’s prima facie case, combined with sufficient evidence to find that the employer’s asserted justification is false, may permit the trier of fact to conclude that the employer unlawfully discriminated.” ’ ” (*Diego v. City of Los Angeles* (2017) 15 Cal.App.5th 338, 350–351 [223 Cal.Rptr.3d 173], internal citations omitted.)
- “While a complainant need not prove that [discriminatory] animus was the sole motivation behind a challenged action, he must prove by a preponderance of the evidence that there was a ‘causal connection’ between the employee’s protected status and the adverse employment decision.” (*Mixon, supra*, 192 Cal.App.3d at p. 1319.)
- “Requiring the plaintiff to show that discrimination was a *substantial* motivating factor, rather than simply a motivating factor, more effectively ensures that liability will not be imposed based on evidence of mere thoughts or passing statements unrelated to the disputed employment decision. At the same time, ... proof that discrimination was a *substantial* factor in an employment decision triggers the deterrent purpose of the FEHA and thus exposes the employer to liability, even if other factors would have led the employer to make the same decision at the time.” (*Harris, supra*, 56 Cal.4th at p. 232, original italics.)
- “We do not suggest that discrimination must be alone sufficient to bring about an employment decision in order to constitute a substantial motivating factor. But it is important to recognize that discrimination can be serious, consequential, and even by itself determinative of an employment decision without also being a “but for” cause.” (*Harris, supra*, 56 Cal.4th at p. 229.)
- “In cases involving a comparison of the plaintiff’s qualifications and those of the successful candidate, we must assume that a reasonable juror who might disagree with the employer’s decision, but would find the question close, would not usually infer discrimination on the basis of a comparison of qualifications alone. In a close case, a reasonable juror would usually assume that the employer is more capable of assessing the significance of small differences in the qualifications of the candidates, or that the employer simply made a judgment call. [Citation.] But this does not mean that a reasonable juror would in every case defer to the employer’s assessment. If that were so, no job discrimination case could ever go to trial. If a factfinder can conclude that a reasonable employer would have found the plaintiff to be *significantly better* qualified for the job, but this employer did not, the factfinder can legitimately infer that the employer consciously selected a less-qualified candidate—something that employers do not usually do, unless some other strong consideration, such as discrimination, enters into the picture.” (*Reeves v. MV Transportation, Inc.* (2010) 186 Cal.App.4th 666, 674–675 [111 Cal.Rptr.3d 896], original italics.)
- “While not all cases hold that ‘the disparity in candidates’ qualifications “must be so apparent as to jump off the page and slap us in the face to support a finding of pretext” ’ the precedents do consistently require that the disparity be substantial to support an inference of discrimination.” (*Reeves, supra*, 186 Cal.App.4th at p. 675, internal citation omitted.)

- “In no way did the Court of Appeal in *Reeves* overturn the long-standing rule that comparator evidence is relevant and admissible where the plaintiff and the comparator are similarly situated in all relevant respects and the comparator is treated more favorably. Rather, it held that in a job hiring case, and in the context of a summary judgment motion, a plaintiff’s weak comparator evidence ‘alone’ is insufficient to show pretext.” (*Gupta v. Trustees of California State University* (2019) 40 Cal.App.5th 510, 521 [253 Cal.Rptr.3d 277].)
- “[Defendant] contends that a trial court must assess the relative strength and nature of the evidence presented on summary judgment in determining if the plaintiff has ‘created only a weak issue of fact.’ However, [defendant] overlooks that a review of all of the evidence is essential to that assessment. The stray remarks doctrine, as advocated by [defendant], goes further. It allows a court to weigh and assess the remarks in isolation, and to disregard the potentially damaging nature of discriminatory remarks simply because they are made by ‘nondecisionmakers, or [made] by decisionmakers unrelated to the decisional process.’ [Defendant] also argues that ambiguous remarks are stray, irrelevant, prejudicial, and inadmissible. However, ‘the task of disambiguating ambiguous utterances is for trial, not for summary judgment.’ Determining the weight of discriminatory or ambiguous remarks is a role reserved for the jury. The stray remarks doctrine allows the trial court to remove this role from the jury.” (*Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 540–541 [113 Cal.Rptr.3d 327, 235 P.3d 988], internal citations omitted; see Gov. Code, § 12923(c) [Legislature affirms the decision in *Reid v. Google, Inc.* in its rejection of the “stray remarks doctrine”].)
- “[D]iscriminatory remarks can be relevant in determining whether intentional discrimination occurred: ‘Although stray remarks may not have strong probative value when viewed in isolation, they may corroborate direct evidence of discrimination or gain significance in conjunction with other circumstantial evidence. Certainly, who made the comments, when they were made in relation to the adverse employment decision, and in what context they were made are all factors that should be considered.’” (*Husman v. Toyota Motor Credit Corp.* (2017) 12 Cal.App.5th 1168, 1190–1191 [220 Cal.Rptr.3d 42].)
- “Discrimination on the basis of an employee’s foreign accent is a sufficient basis for finding national origin discrimination.” (*Galvan v. Dameron Hospital Assn.* (2019) 37 Cal.App.5th 549, 562 [250 Cal.Rptr.3d 16].)
- “Because of the similarity between state and federal employment discrimination laws, California courts look to pertinent federal precedent when applying our own statutes.” (*Guz, supra*, 24 Cal.4th at p. 354.)
- “We have held ‘that, in a civil action under the FEHA, all relief generally available in noncontractual actions ... may be obtained.’ This includes injunctive relief.” (*Aguilar v. Avis Rent A Car System, Inc.* (1999) 21 Cal.4th 121, 132 [87 Cal.Rptr.2d 132, 980 P.2d 846], internal citations omitted.)
- “The FEHA does not itself authorize punitive damages. It is, however, settled that California’s punitive damages statute, Civil Code section 3294, applies to actions brought under the FEHA” (*Weeks v. Baker & McKenzie* (1998) 63 Cal.App.4th 1128, 1147–1148 [74 Cal.Rptr.2d 510], internal citations omitted.)

Secondary Sources

8 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ ~~1143–1147~~[1025 et seq.](#)

Chin et al., California Practice Guide: Employment Litigation, Ch. 7-A, *Title VII And The California Fair Employment And Housing Act*, ¶¶ 7:194, 7:200–7:201, 7:356, 7:391–7:392 (The Rutter Group)

1 Wrongful Employment Termination Practice (Cont.Ed.Bar 2d ed.) Discrimination Claims, §§ 2.44–2.82

3 Wilcox, California Employment Law, Ch. 43, *Civil Actions Under Equal Employment Opportunity Laws*, § 43.01 (Matthew Bender)

11 California Forms of Pleading and Practice, Ch. 115, *Civil Rights: Employment Discrimination*, § 115.23[2] (Matthew Bender)

California Civil Practice: Employment Litigation, §§ 2:2, 2:20 (Thomson Reuters)

**3020. Excessive Use of Force—Unreasonable Arrest or Other Seizure—Essential Factual Elements
(42 U.S.C. § 1983)**

[Name of plaintiff] claims that *[name of defendant]* used excessive force in *[arresting/detaining]* *[him/her/nonbinary pronoun]* in violation of the Fourth Amendment to the United States Constitution. To establish this claim, *[name of plaintiff]* must prove all of the following:

1. That *[name of defendant]* used force in *[arresting/detaining]* *[name of plaintiff]*;
2. That the force used by *[name of defendant]* was excessive;
3. That *[name of defendant]* was acting or purporting to act in the performance of *[his/her/nonbinary pronoun]* official duties;
4. That *[name of plaintiff]* was harmed; and
5. That *[name of defendant]*'s use of excessive force was a substantial factor in causing *[name of plaintiff]*'s harm.

Under the Fourth Amendment, force is excessive if it is not reasonably necessary under the circumstances. In deciding whether force is reasonably necessary or excessive, you should determine, based on all of the facts and circumstances, what force a reasonable law enforcement officer on the scene would have used under the same or similar circumstances. You should consider the following:

- (a) Whether *[name of plaintiff]* reasonably appeared to pose an immediate threat to the safety of *[name of defendant]* or others;
 - (b) The seriousness of the crime at issue *[or other circumstances known to [name of defendant] at the time force was applied]*;
 - (c) Whether *[name of plaintiff]* was actively *[resisting [arrest/detention]/ [or] attempting to avoid [arrest/detention] by flight]*;
 - (d) The amount of time *[name of defendant]* had to determine the type and amount of force that reasonably appeared necessary, and any changing circumstances during that time period*;* and \cdot]
 - [(e) The type and amount of force used $;$ and \cdot .]*
 - [(f) [Specify other factors particular to the case].]*
-

June 2015, June 2016, May 2020, November 2020

Directions for Use

The Fourth Amendment’s “objective reasonableness” standard applies to all claims of excessive force against law enforcement officers in the course of making an arrest, investigatory stop, or other seizure brought under Title 42 United States Code section 1983, whether deadly or not. (*Scott v. Harris* (2007) 550 U.S. 372, 381–385 [127 S.Ct. 1769, 167 L.Ed.2d 686].)

The “official duties” referred to in element 3 must be duties created by a state, county, or municipal law, ordinance, or regulation. This aspect of color of law most likely will not be an issue for the jury, so it has been omitted to shorten the wording of element 3.

Factors (a), (b), and (c) are often referred to as the “*Graham* factors.” (See *Graham v. Connor* (1989) 490 U.S. 386, 396 [109 S.Ct. 1865, 104 L.Ed.2d 443].) The *Graham* factors are not exclusive. (See *Glenn v. Wash. County* (9th Cir. 2011) 673 F.3d 864, 872.) Other relevant factors include the availability of less intrusive alternatives to the force employed, whether proper warnings were given, and whether it should have been apparent to officers that the person they used force against was emotionally disturbed. (*Id.*) These and other additional factors may be added if appropriate to the facts of the case.

Claims of excessive force brought by pretrial detainees are governed by the Fourteenth Amendment’s Due Process Clause and are also analyzed under an objective reasonableness standard. (*Kingsley v. Hendrickson* (2015) 576 U.S. 389 [135 S.Ct. 2466, 2473, 192 L.Ed.2d 416].) Modify the instruction for use in a case brought by a pretrial detainee involving the use of excessive force after arrest, but before conviction. For an instruction on an excessive force claim brought by a convicted prisoner, see CACI No. 3042, *Violation of Prisoner’s Federal Civil Rights—Eighth Amendment—Excessive Force*.

The legality or illegality of the use of deadly force under state law is not relevant to the constitutional question. (Cf. *People v. McKay* (2002) 27 Cal.4th 601, 610 [117 Cal.Rptr.2d 236, 41 P.3d 59] [“[T]he [United States Supreme Court] has repeatedly emphasized that the Fourth Amendment inquiry does not depend on whether the challenged police conduct was authorized by state law”]; see also Pen. Code, § 835a.)

For instructions for use in a negligence claim under California common law based on the same event and facts, see CACI No. 440, *Negligent Use of Nondeadly Force by Law Enforcement Officer in Arrest or Other Seizure—Essential Factual Elements*, and CACI No. 441, *Negligent Use of Deadly Force by Peace Officer—Essential Factual Elements*. For an instruction for use alleging excessive force as a battery, see CACI No. ~~1305, *Battery by Peace Officer—Essential Factual Elements*~~ 1305A, *Battery by Law Enforcement Officer (Nondeadly Force)—Essential Factual Elements*, and CACI No. ~~1305B, *Battery by Peace Officer (Deadly Force)—Essential Factual Elements*~~.

Sources and Authority

- “In addressing an excessive force claim brought under § 1983, analysis begins by identifying the specific constitutional right allegedly infringed by the challenged application of force. In most instances, that will be either the Fourth Amendment’s prohibition against unreasonable seizures of the person, or the Eighth Amendment’s ban on cruel and unusual punishments, which are the two primary

sources of constitutional protection against physically abusive governmental conduct.” (*Graham, supra*, 490 U.S. at p. 395, internal citations and footnote omitted.)

- “Where, as here, the excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the Fourth Amendment, which guarantees citizens the right ‘to be secure in their persons ... against unreasonable ... seizures’ of the person.” (*Graham, supra*, 490 U.S. at p. 394.)
- “In deciding whether the force deliberately used is, constitutionally speaking, ‘excessive,’ should courts use an objective standard only, or instead a subjective standard that takes into account a defendant’s state of mind? It is with respect to *this* question that we hold that courts must use an objective standard.” (*Kingsley, supra*, 576 U.S. at p. 396, original italics.)
- “[A]ll claims that law enforcement officers have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other ‘seizure’ of a free citizen should be analyzed under the Fourth Amendment and its ‘reasonableness’ standard, rather than under a ‘substantive due process’ approach.” (*Graham, supra*, 490 U.S. at p. 395.)
- “The question in this case is whether a seizure occurs when an officer shoots someone who temporarily eludes capture after the shooting. The answer is yes: The application of physical force to the body of a person with intent to restrain is a seizure, even if the force does not succeed in subduing the person.” (*Torres v. Madrid* (2021) ___ U.S. ___ [141 S.Ct. 989, 993–994, 209 L.Ed.2d 190].)
- “ ‘The intrusiveness of a seizure by means of deadly force is unmatched.’ ‘The use of deadly force implicates the highest level of Fourth Amendment interests both because the suspect has a “fundamental interest in his own life” and because such force “frustrates the interest of the individual, and of society, in judicial determination of guilt and punishment.” ’ ” (*Vos v. City of Newport Beach* (9th Cir. 2018) 892 F.3d 1024, 1031.)
- “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” (*Graham, supra*, 490 U.S. at p. 396.)
- “Because ‘[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application,’ ... its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Graham, supra*, 490 U.S. at p. 396, internal citation omitted.)
- “The most important of these [factors from *Graham*, above] is whether the suspect posed an immediate threat to the officers or others, as measured objectively under the circumstances.” (*Mendoza v. City of West Covina* (2012) 206 Cal.App.4th 702, 712 [141 Cal.Rptr.3d 553] .)
- “[The *Graham*] factors, however, are not exclusive. We ‘examine the totality of the circumstances and consider “whatever specific factors may be appropriate in a particular case, whether or not listed

in *Graham*.” Other relevant factors include the availability of less intrusive alternatives to the force employed, whether proper warnings were given and whether it should have been apparent to officers that the person they used force against was emotionally disturbed.” (*Glenn, supra*, 673 F.3d at p. 872, internal citations omitted.)

- “With respect to the possibility of less intrusive force, officers need not employ the least intrusive means available[,] so long as they act within a range of reasonable conduct.” (*Estate of Lopez v. Gelhaus* (9th Cir. 2017) 871 F.3d 998, 1006.)
- “Although officers are not required to use the least intrusive degree of force available, ‘the availability of alternative methods of capturing or subduing a suspect may be a factor to consider.’ ” (*Vos, supra*, 892 F.3d at p. 1033, internal citation omitted.)
- “Courts ‘also consider, under the totality of the circumstances, the quantum of force used to arrest the plaintiff, the availability of alternative methods of capturing or detaining the suspect, and the plaintiff’s mental and emotional state.’ ” (*Brooks v. Clark County* (9th Cir. 2016) 828 F.3d 910, 920.)
- “Because the reasonableness standard ‘nearly always requires a jury to sift through disputed factual contentions, and to draw inferences therefrom, we have held on many occasions that summary judgment or judgment as a matter of law in excessive force cases should be granted sparingly.’ ” (*Torres v. City of Madera* (9th Cir. 2011) 648 F.3d 1119, 1125.)
- “Justice Stevens incorrectly declares [the ‘objective reasonableness’ standard under *Graham*] to be ‘a question of fact best reserved for a jury,’ and complains we are ‘usurp[ing] the jury’s factfinding function.’ At the summary judgment stage, however, once we have determined the relevant set of facts and drawn all inferences in favor of the nonmoving party *to the extent supportable by the record*, the reasonableness of [defendant]’s actions--or, in Justice Stevens’ parlance, ‘[w]hether [respondent’s] actions have risen to a level warranting deadly force,’ is a pure question of law.” (*Scott, supra*, 550 U.S. at p. 381, fn. 8, original italics, internal citations omitted.)
- “Because there are no genuine issues of material fact and ‘the relevant set of facts’ has been determined, the reasonableness of the use of force is ‘a pure question of law.’ ” (*Lowry v. City of San Diego* (9th Cir. 2017) 858 F.3d 1248, 1256 (en banc).)
- “In assessing the objective reasonableness of a particular use of force, we consider: (1) ‘the severity of the intrusion on the individual’s Fourth Amendment rights by evaluating the type and amount of force inflicted,’ (2) ‘the government’s interest in the use of force,’ and (3) the balance between ‘the gravity of the intrusion on the individual’ and ‘the government’s need for that intrusion.’ ” (*Lowry, supra*, 858 F.3d at p. 1256.)
- “To be sure, the reasonableness inquiry in the context of excessive force balances ‘intrusion[s] on the individual’s Fourth Amendment interests’ against the government’s interests. But in weighing the evidence in favor of the officers, rather than the [plaintiffs], the district court unfairly tipped the reasonableness inquiry in the officers’ favor.” (*Sandoval v. Las Vegas Metro. Police Dep’t* (9th Cir. 2014) 756 F.3d 1154, 1167, internal citation omitted.)

- “The district court found that [plaintiff] stated a claim for excessive use of force, but that governmental interests in officer safety, investigating a possible crime, and controlling an interaction with a potential domestic abuser outweighed the intrusion upon [plaintiff]’s rights. In reaching this conclusion, the court improperly ‘weigh[ed] conflicting evidence with respect to . . . disputed material fact[s].’ ” (*Bonivert v. City of Clarkston* (9th Cir. 2018) 883 F.3d 865, 880.)
- “The Fourth Amendment’s ‘reasonableness’ standard is not the same as the standard of ‘reasonable care’ under tort law, and negligent acts do not incur constitutional liability.” (*Hayes v. County of San Diego* 57 Cal.4th 622, 639 [160 Cal.Rptr.3d 684, 305 P.3d 252].)
- “[S]tate negligence law, which considers the totality of the circumstances surrounding any use of deadly force, is broader than federal Fourth Amendment law, which tends to focus more narrowly on the moment when deadly force is used.” (*Hayes, supra*, 57 Cal.4th at p. 639, internal citations omitted.)
- “While a Fourth Amendment violation cannot be established ‘based merely on bad tactics that result in a deadly confrontation that could have been avoided,’ the events leading up to the shooting, including the officers tactics, are encompassed in the facts and circumstances for the reasonableness analysis.” (*Vos, supra*, 892 F.3d at p. 1034, internal citations omitted.)
- “We are cognizant of the Supreme Court’s command to evaluate an officer’s actions ‘from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.’ We also recognize the reality that ‘police officers are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation.’ This does not mean, however, that a Fourth Amendment violation will be found only in those rare instances where an officer and his attorney are unable to find a sufficient number of compelling adjectives to describe the victim’s conduct. Nor does it mean that we can base our analysis on what officers actually felt or believed during an incident. Rather, we must ask if the officers’ conduct is ‘objectively reasonable” in light of the facts and circumstances confronting them’ without regard for an officer’s subjective intentions.” (*Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 831, internal citations omitted.)
- “The following considerations may bear on the reasonableness (or unreasonableness) of the force used: ‘the relationship between the need for the use of force and the amount of force used; the extent of the plaintiff’s injury; any effort made by the officer to temper or to limit the amount of force; the severity of the security problem at issue; the threat reasonably perceived by the officer; and whether the plaintiff was actively resisting.’ The most important factor is whether the suspect posed an immediate threat. This analysis is not static, and the reasonableness of force may change as the circumstances evolve.” (*Hyde v. City of Willcox* (9th Cir. 2022) 23 F.4th 863, 870, internal citations omitted.)
- “Deadly force is permissible only ‘if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm.’ ” (*A. K. H. v. City of Tustin* (9th Cir. 2016) 837 F.3d 1005, 1011.)
- “[A]n officer may not use deadly force to apprehend a suspect where the suspect poses no immediate

threat to the officer or others. On the other hand, it is not constitutionally unreasonable to prevent escape using deadly force ‘[w]here the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others.’ ” (*Wilkinson v. Torres* (9th Cir. 2010) 610 F.3d 546, 550, internal citations omitted.)

- “It is clearly established law that shooting a fleeing suspect in the back violates the suspect’s Fourth Amendment rights. ‘Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. . . . A police officer may not seize an unarmed, nondangerous suspect by shooting him dead.’ ” (*Foster v. City of Indio* (9th Cir. 2018) 908 F.3d 1204, 1211.)
- “ ‘[I]f police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.’ But terminating a threat doesn’t necessarily mean terminating the suspect. If the suspect is on the ground and appears wounded, he may no longer pose a threat; a reasonable officer would reassess the situation rather than continue shooting.” (*Zion v. County of Orange* (9th Cir. 2017) 874 F.3d 1072, 1076, internal citation omitted.)
- “Resistance, or the reasonable perception of resistance, does not entitle police officers to use any amount of force to restrain a suspect. Rather, police officers who confront actual (or perceived) resistance are only permitted to use an amount of force that is reasonable to overcome that resistance.” (*Barnard v. Theobald* (9th Cir. 2013) 721 F.3d 1069, 1076, internal citations omitted.)
- “[T]he fact that the ‘suspect was armed with a deadly weapon’ does *not* render the officers’ response per se reasonable under the Fourth Amendment. [¶] This is not to say that the Fourth Amendment always requires officers to delay their fire until a suspect turns his weapon on them. If the person is armed—or reasonably suspected of being armed—a furtive movement, harrowing gesture, or serious verbal threat might create an immediate threat.” (*George v. Morris* (9th Cir. 2013) 724 F.3d 1191, 1200, original italics, internal citations omitted.)
- “Two cases published about three years before the April 2016 incident, *Hayes v. County of San Diego* and *George v. Morris*, made ‘clear to a reasonable officer’ that a police officer may not use deadly force against a non-threatening individual, even if the individual is armed, and even if the situation is volatile.” (*Estate of Aguirre v. County of Riverside* (9th Cir. 2022) 29 F.4th 624, 629.)
- “ ‘[A] simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern.’ Here, whether objective factors supported [defendant]’s supposed subjective fear is not a question that can be answered as a matter of law based upon the limited evidence in the record, especially given that on summary judgment that evidence must be construed in the light most favorable to [plaintiff], the non-moving party. Rather, whether [defendant]’s claim that he feared a broccoli-based assault is credible and reasonable presents a genuine question of material fact that must be resolved not by a court ruling on a motion for summary judgment but by a jury in its capacity as the trier of fact.” (*Young v. County of Los Angeles* (9th Cir. 2011) 655 F.3d 1156, 1163–1164.)
- “An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of

force constitutional.” (*Fetters v. County of Los Angeles* (2016) 243 Cal.App.4th 825, 838 [196 Cal.Rptr.3d 848].)

- “Where ... ‘an officer’s particular use of force is based on a mistake of fact, we ask whether a reasonable officer would have or should have accurately perceived that fact.’ ‘[W]hether the mistake was an honest one is not the concern, only whether it was a reasonable one.’ ” (*Nehad v. Browder* (9th Cir. 2019) 929 F.3d 1125, 1133, original italics, internal citation and footnote omitted.)
- “Although *Graham* does not specifically identify as a relevant factor whether the suspect poses a threat to *himself*, we assume that the officers could have used some reasonable level of force to try to prevent [decedent] from taking a suicidal act. But we are aware of no published cases holding it reasonable to use a *significant* amount of force to try to stop someone from attempting suicide. Indeed, it would be odd to permit officers to use force capable of causing serious injury or death in an effort to prevent the possibility that an individual might attempt to harm only himself. We do not rule out that in some circumstances some force might be warranted to prevent suicide, but in cases like this one the ‘solution’ could be worse than the problem.” (*Glenn, supra*, 673 F.3d at p. 872.)
- “This Court has ‘refused to create two tracks of excessive force analysis, one for the mentally ill and one for serious criminals.’ The Court has, however, ‘found that even when an emotionally disturbed individual is acting out and inviting officers to use deadly force to subdue him, the governmental interest in using such force is diminished by the fact that the officers are confronted . . . with a mentally ill individual.’ A reasonable jury could conclude, based upon the information available to [defendant officer] at the time, that there were sufficient indications of mental illness to diminish the governmental interest in using deadly force.” (*Hughes v. Kisela* (9th Cir. 2016) 841 F.3d 1081, 1086.)
- “Whether an officer warned a suspect that failure to comply with the officer’s commands would result in the use of force is another relevant factor in an excessive force analysis.” (*Nehad, supra*, 929 F.3d at p. 1137.)
- “By contrast, if the officer warned the offender that he would employ force, but the suspect refused to comply, the government has an increased interest in the use of force.” (*Marquez v. City of Phoenix* (9th Cir. 2012) 693 F.3d 1167, 1175, internal citation omitted.)
- “[P]reshooting conduct is included in the totality of circumstances surrounding an officer’s use of deadly force, and therefore the officer’s duty to act reasonably when using deadly force extends to preshooting conduct. But in a case like this one, where the preshooting conduct did not cause the plaintiff any injury independent of the injury resulting from the shooting, the reasonableness of the officers’ preshooting conduct should not be considered in isolation. Rather, it should be considered in relation to the question whether the officers’ ultimate use of deadly force was reasonable.” (*Hayes, supra*, 57 Cal.4th at p. 632, internal citation omitted.)
- • “Sometimes, however, officers themselves may ‘unnecessarily creat[e] [their] own sense of urgency.’ Reasonable triers of fact can, taking the totality of the circumstances into account, conclude that an officer’s poor judgment or lack of preparedness caused him or her to act unreasonably, ‘with undue haste.’ ” (*Nehad, supra*, 929 F.3d at p. 1135, internal citation and footnote omitted.)

- “A person is seized by the police and thus entitled to challenge the government’s action under the Fourth Amendment when the officer by means of physical force or show of authority terminates or restrains his freedom of movement through means intentionally applied.” (*Nelson v. City of Davis* (9th Cir. 2012) 685 F.3d 867, 875.)
- “The Supreme Court has interpreted the phrase ‘under “color” of law’ to mean ‘under “pretense” of law.’ A police officer’s actions are under pretense of law only if they are ‘in some way “related to the performance of his official duties.”’ By contrast, an officer who is ‘“pursuing his own goals and is not in any way subject to control by [his public employer],”’ does not act under color of law, unless he ‘purports or pretends’ to do so. Officers who engage in confrontations for personal reasons unrelated to law enforcement, and do not ‘purport[] or pretend[]’ to be officers, do not act under color of law.” (*Huffman v. County of Los Angeles* (9th Cir. 1998) 147 F.3d 1054, 1058, internal citations omitted.)
- “We hold that, in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus. A claim for damages bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983. Thus, when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated. But if the district court determines that the plaintiff’s action, even if successful, will not demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed, in the absence of some other bar to the suit.” (*Heck v. Humphrey* (1994) 512 U.S. 477, 486–487 [114 S.Ct. 2364, 129 L.Ed.2d 383], footnotes and internal citation omitted.)
- “*Heck* requires the reviewing court to answer three questions: (1) Was there an underlying conviction or sentence relating to the section 1983 claim? (2) Would a ‘judgment in favor of the plaintiff [in the section 1983 action] “necessarily imply” ... the invalidity of the prior conviction or sentence?’ (3) ‘If so, was the prior conviction or sentence already invalidated or otherwise favorably terminated?’ ” (*Fetters, supra*, 243 Cal.App.4th at p. 834.)
- “The *Heck* inquiry does not require a court to consider whether the section 1983 claim would establish beyond all doubt the invalidity of the criminal outcome; rather, a court need only ‘consider whether a judgment in favor of the plaintiff would necessarily *imply* the invalidity of his conviction or sentence.’ ” (*Fetters, supra*, 243 Cal.App.4th at p. 841, original italics.)
- “[A] dismissal under section 1203.4 does not invalidate a conviction for purposes of removing the *Heck* bar preventing a plaintiff from bringing a civil action.” (*Baranchik v. Fizulich* (2017) 10 Cal.App.5th 1210, 1224 [217 Cal.Rptr.3d 423].)
- “[Plaintiff]’s section 1983 claim *is* barred to the extent it alleges that [the arresting officer] lacked justification to arrest him or to respond with reasonable force to his resistance. The use of deadly

force in this situation, though, requires a separate analysis. ‘For example, a defendant might resist a lawful arrest, to which the arresting officers might respond with excessive force to subdue him. The subsequent use of excessive force would not negate the lawfulness of the initial arrest attempt, or negate the unlawfulness of the criminal defendant’s attempt to resist it. Though occurring in one continuous chain of events, two isolated factual contexts would exist, the first giving rise to criminal liability on the part of the criminal defendant, and the second giving rise to civil liability on the part of the arresting officer.’ ” (*Yount v. City of Sacramento* (2008) 43 Cal.4th 885, 899 [76 Cal.Rptr.3d 787, 183 P.3d 471], original italics.)

- “Plaintiffs contend that the use of force is unlawful because the arrest itself is unlawful. But that is not so. We have expressly held that claims for false arrest and excessive force are analytically distinct.” (*Sharp v. County of Orange* (9th Cir. 2017) 871 F.3d 901, 916.)
- “[T]he district court effectively required the jury to presume that the arrest *was* constitutionally lawful, and so not to consider facts concerning the basis for the arrest. Doing so removed critical factual questions that were within the jury’s province to decide. For instance, by taking from the jury the question whether [officer]’s arrest of [plaintiff] for resisting or obstructing a police officer was lawful, the district judge implied simultaneously that [plaintiff] was in fact resisting or failing to obey the police officer’s lawful instructions. Presuming such resistance could certainly have influenced the jury’s assessment of ‘the need for force,’ as well as its consideration of the other *Graham* factors, including ‘whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight. By erroneously granting judgment as a matter of law on [plaintiff]’s unlawful arrest claim, the district court impermissibly truncated the jury’s consideration of [plaintiff]’s excessive force claim.” (*Velazquez v. City of Long Beach* (9th Cir. 2015) 793 F.3d 1010, 1027, original italics.)

Secondary Sources

8 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ ~~981, 985~~902

~~Chin et al., California Practice Guide: Employment Litigation, Ch.7-G, Unruh Civil Rights Act, ¶ 7:1526 et seq. (The Rutter Group)~~

3 Civil Rights Actions, Ch. 10, *Deprivation of Rights Under Color of State Law—Law Enforcement and Prosecution*, ¶¶ 10.00–10.03 (Matthew Bender)

11 California Forms of Pleading and Practice, Ch. 113, *Civil Rights: The Post-Civil War Civil Rights Statutes*, § 113.14 (Matthew Bender)

3046. Violation of Pretrial Detainee’s Federal Civil Rights—Fourteenth Amendment—Medical Care and Conditions of Confinement (42 U.S.C. § 1983)

[Name of plaintiff] claims that *[name of defendant]* failed to provide *[him/her/nonbinary pronoun]* *[safe conditions of confinement/needed medical care]* in violation of *[his/her/nonbinary pronoun]* constitutional rights. To establish this claim, *[name of plaintiff]* must prove all of the following:

1. That *[name of defendant]* made an intentional decision regarding the *[conditions of confinement/denial of needed medical care]*;
 2. That the *[conditions of confinement/denial of needed medical care]* put *[name of plaintiff]* at substantial risk of serious harm;
 3. That *[name of defendant]* did not take reasonable available measures to prevent or reduce the risk of serious harm, even though a reasonable officer under the same or similar circumstances would have understood the high degree of risk involved;
 4. That *[name of defendant]* was acting or purporting to act in the performance of *[his/her/nonbinary pronoun]* official duties;
 5. That *[name of plaintiff]* was harmed; and
 6. That *[name of defendant]*’s conduct was a substantial factor in causing *[name of plaintiff]*’s harm.
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New November 2021

Directions for Use

Give this instruction in a case involving a pretrial detainee’s conditions of confinement, including access to medical care. (See *Gordon v. County of Orange* (9th Cir. 2018) 888 F.3d 1118, 1124–1125.)

The instruction may be modified for use in a failure to protect case. (See *Castro v. County of Los Angeles* (9th Cir. 2016) 833 F.3d 1060 (en banc).) The instruction may also be modified to specify the condition of confinement at issue. For example, if the plaintiff claims that the defendant delayed or intentionally interfered with needed medical treatment, it may not be sufficiently clear to describe the defendant’s conduct in the introductory paragraph and in elements 1 and 2 as a denial of needed medical care.

Sources and Authority

- Deprivation of Civil Rights. Title 42 United States Code section 1983.
- “Inmates who sue prison officials for injuries suffered while in custody may do so under the Eighth

Amendment’s Cruel and Unusual Punishment Clause or, if not yet convicted, under the Fourteenth Amendment’s Due Process Clause. Under both clauses, the plaintiff must show that the prison officials acted with ‘deliberate indifference.’ ” (*Castro, supra*, 833 F.3d at pp. 1067–1068, internal citation omitted.)

- “[W]e hold that claims for violations of the right to adequate medical care ‘brought by pretrial detainees against individual defendants under the Fourteenth Amendment’ must be evaluated under an objective deliberate indifference standard.” (*Gordon, supra*, 888 F.3d at pp. 1124–1125.)
- “[C]laims for violations of the right to adequate medical care ‘brought by pretrial detainees against individual defendants under the Fourteenth Amendment’ must be evaluated under an objective deliberate indifference standard. Based thereon, the elements of a pretrial detainee’s medical care claim against an individual defendant under the due process clause of the Fourteenth Amendment are: (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant’s conduct obvious; and (iv) by not taking such measures, the defendant caused the plaintiff’s injuries. ‘With respect to the third element, the defendant’s conduct must be objectively unreasonable, a test that will necessarily “turn[] on the facts and circumstances of each particular case.” ’ The ‘ “mere lack of due care by a state official” does not deprive an individual of life, liberty, or property under the Fourteenth Amendment.’ Thus, the plaintiff must ‘prove more than negligence but less than subjective intent—something akin to reckless disregard.’ ” (*Gordon, supra*, 888 F.3d at pp. 1124–1125, internal citations omitted.)
- “ ‘[T]he objective deliberate indifference standard applies even when the incident occurred pre-*Gordon*.’ Thus, to determine whether the defendants are entitled to qualified immunity, we do not consider whether they subjectively understood that [the detainee] faced a substantial risk of serious harm. Rather, we conduct ‘an objective examination of whether established case law would make clear to every reasonable official that the defendant’s *conduct* was unlawful in the situation he confronted.’ ” (*Russell v. Lunitap* (9th Cir. 2022) 31 F.4th 729, 740, original italics, internal citations and footnotes omitted.)
- “Our cases make clear that prison officials violate the Constitution when they ‘deny, delay or intentionally interfere’ with needed medical treatment. The same is true when prison officials choose a course of treatment that is ‘medically unacceptable under the circumstances.’ ” (*Sandoval v. County of San Diego* (9th Cir. 2021) 985 F.3d 657, 679.)

Secondary Sources

5 Witkin, Summary of California Law (11th ed. 2017) Torts, § 356

7 Civil Rights Actions, Ch. 11, Fourteenth Amendment–Due Process, § 11.10; Ch. F10, *Prisoner’s Rights* (Matthew Bender)

5 Levy et al., California Torts, Ch. 61, *Particular Liabilities and Immunities of Public Entities and Public*

Employees, § 61.16 (Matthew Bender)

11 California Forms of Pleading and Practice, Ch. 113, *Civil Rights: The Post-Civil War Civil Rights Statutes*, § 113.14 (Matthew Bender)

3050. Retaliation—Essential Factual Elements (42 U.S.C. § 1983)

[Name of plaintiff] claims that [name of defendant] retaliated against [him/her/nonbinary pronoun] for exercising a constitutional right. To establish retaliation, [name of plaintiff] must prove all of the following:

1. That [he/she/nonbinary pronoun] was engaged in a constitutionally protected activity[, which I will determine after you, the jury, decide certain facts];

[2. That [name of defendant] did not have probable cause for the [arrest/prosecution][, which I will determine after you, the jury, decide certain facts];]

3. That [name of defendant] [specify alleged retaliatory conduct];

4. That [name of plaintiff]’s constitutionally protected activity was a substantial or motivating factor for [name of defendant]’s acts;

5. That [name of defendant]’s acts would likely have deterred a reasonable person from [specify protected activity, e.g., filing a lawsuit]; and

6. That [name of plaintiff] was harmed as a result of [name of defendant]’s conduct.

The law requires that the trial judge, rather than the jury, decide if [name of plaintiff] has proven element 1 [and element 2] above.

[But before I can do so, you must decide whether [name of plaintiff] has proven the following: [list all factual disputes that must be resolved by the jury].]

[or]

[The court has determined that by [specify conduct], [name of plaintiff] was exercising [his/her/nonbinary pronoun] constitutionally protected right of [insert right, e.g., privacy].]

[or]

[The court has determined that [name of defendant] did not have probable cause for the [arrest/prosecution].]

New June 2010; Revised December 2010; Renumbered from CACI No. 3016 and Revised December 2012; Revised June 2013, May 2020, May 2021, November 2021

Directions for Use

Give this instruction along with CACI No. 3000, *Violation of Federal Civil Rights—In General—Essential Factual Elements*, if the claimed civil rights violation is retaliation for exercising

constitutionally protected rights, including exercise of free speech rights as a private citizen. For a claim by a public employee who alleges that they suffered an adverse employment action in retaliation for their speech on an issue of public concern, see CACI No. 3053, *Retaliation for Exercise of Free Speech Rights—Public Employee—Essential Factual Elements*.

The retaliation should be alleged generally in element 1 of CACI No. 3000. The constitutionally protected activity refers back to the right alleged to have been violated in element 3 of CACI No. 3000.

Element 2 applies only in retaliatory arrest and prosecution cases. Omit element 2 if the retaliation alleged is not based on an arrest or prosecution.

Whether plaintiff was engaged in a constitutionally protected activity and, if applicable, whether probable cause for arrest or prosecution was absent (or whether the no-probable-cause requirement does not apply because of an exception) will usually have been resolved by the court as a matter of law before trial. (See *Nieves v. Bartlett* (2019) __ U.S. __ [139 S.Ct. 1715, 1724, 1727, 204 L.Ed.2d 1] [requiring a plaintiff to plead and prove the absence of probable cause for arrest but stating an exception to the no-probable-cause requirement “when a plaintiff presents objective evidence that he was arrested when otherwise similarly situated individuals not engaged in the same sort of protected speech had not been”].) If there is a question of fact that the jury must resolve, include the optional bracketed language with element 1 and/or element 2, and give the first bracketed option of the final paragraph, identifying with specificity all disputed factual issues the jury must resolve for the court to determine the contested element or elements. If the court has determined element 1 or element 2, omit the optional bracketed language of the element and instruct the jury that the element has been determined as a matter of law by giving the second and/or third optional sentence(s) in the final paragraph. If there are contested issues of fact regarding the exception to the no-probable-cause requirement, this instruction may be augmented to include the specific factual findings necessary for the court to determine whether the exception applies.

The plaintiff must show that the defendant acted with a retaliatory motive and that the motive was a “but for” cause of the plaintiff’s injury, i.e., that the retaliatory action would not have been taken absent the retaliatory motive. (See *Nieves, supra*, 139 S.Ct. at p. 1722.) A plaintiff may prove causal connection with circumstantial evidence but establishing a causal connection between a defendant’s animus and a plaintiff’s injury will depend on the type of retaliation case. (*Id.* at pp. 1722–1723 [distinguishing straightforward cases from more complex cases].)

If the defendant claims that the response to the plaintiff’s constitutionally protected activity was prompted by a legitimate reason, the defendant may attempt to persuade the jury that the defendant would have taken the same action even in the absence of the alleged impermissible, retaliatory reason. See CACI No. 3055, *Rebuttal of Retaliatory Motive*. (*Id.* at p. 1727.)

Sources and Authority

- “Where, as here, the plaintiff claims retaliation for exercising a constitutional right, the majority of federal courts require the plaintiff to prove that (1) he or she was engaged in constitutionally protected activity, (2) the defendant’s retaliatory action caused the plaintiff to suffer an injury that would likely deter a person of ordinary firmness from engaging in that protected activity, and (3) the retaliatory action was motivated, at least in part, by the plaintiff’s protected activity.”

(*Tichinin v. City of Morgan Hill* (2009) 177 Cal.App.4th 1049, 1062–1063 [99 Cal.Rptr.3d 661].)

- “[A]ctions that are otherwise proper and lawful may nevertheless be actionable if they are taken in retaliation against a person for exercising his or her constitutional rights.” (*Tichinin, supra*, 177 Cal.App.4th at p. 1084.)
- “The plaintiff must show that the retaliation was a substantial or motivating factor behind the [arrest], and, if that showing is made, the defendant can prevail only by showing that the [arrest] would have been initiated without respect to retaliation.” (*Nieves, supra*, 139 S.Ct. at p. 1725, internal citation omitted.)
- “To state a First Amendment retaliation claim, a plaintiff must plausibly allege ‘that (1) he was engaged in a constitutionally protected activity, (2) the defendant’s actions would chill a person of ordinary firmness from continuing to engage in the protected activity and (3) the protected activity was a substantial or motivating factor in the defendant’s conduct.’ To ultimately ‘prevail on such a claim, a plaintiff must establish a “causal connection” between the government defendant’s “retaliatory animus” and the plaintiff’s “subsequent injury.” Specifically, a plaintiff must show that the defendant’s retaliatory animus was ‘a “but-for” cause, meaning that the adverse action against the plaintiff would not have been taken absent the retaliatory motive.’ ” (*Capp v. County of San Diego* (9th Cir. 2019) 940 F.3d 1046, 1053, internal citations omitted.)
- “ ‘[A] plaintiff need only identify the law or policy challenged as a constitutional violation and name the official within the entity who can appropriately respond to injunctive relief.’ Thus, a plaintiff seeking injunctive relief for an ongoing First Amendment violation (e.g., a retaliatory policy) may sue individual board members of a public school system in their official capacities to correct the violation.” (*Riley’s Am. Heritage Farms v. Elsasser* (9th Cir. 2022) 32 F.4th 707, 732, internal citations omitted.)
- “For a number of retaliation claims, establishing the causal connection between a defendant’s animus and a plaintiff’s injury is straightforward. Indeed, some of our cases in the public employment context ‘have simply taken the evidence of the motive and the discharge as sufficient for a circumstantial demonstration that the one caused the other,’ shifting the burden to the defendant to show he would have taken the challenged action even without the impermissible motive. But the consideration of causation is not so straightforward in other types of retaliation cases.” *Nieves, supra*, 139 S.Ct. at pp. 1722–1723.)
- “To demonstrate retaliation in violation of the First Amendment, [the plaintiff] must ultimately prove first that [defendant] took action that ‘would chill or silence a person of ordinary firmness from future First Amendment activities.’ ” (*Skoog v. County of Clackamas* (9th Cir. 2006) 469 F.3d 1221, 1231–1232, footnote and citation omitted.)
- “The plaintiff pressing a retaliatory arrest claim must plead and prove the absence of probable cause for the arrest.” (*Nieves, supra*, 139 S.Ct. at p. 1724.)
- “[W]e conclude that the no-probable-cause requirement should not apply when a plaintiff presents objective evidence that he was arrested when otherwise similarly situated individuals not engaged

in the same sort of protected speech had not been.” (*Nieves, supra*, 139 S.Ct. at p. 1727.)

- “[T]he evidence of [plaintiff]’s alleged injuries, if believed, is sufficient to support a finding that the retaliatory action against him would deter a person of ordinary firmness from exercising his or her First Amendment rights. [¶] [Defendant] argues that plaintiff did not suffer any injury—i.e., [defendant]’s action did not chill [plaintiff]’s exercise of his rights—because he continued to litigate against [defendant]. However, that [plaintiff] persevered despite [defendant]’s action is not determinative. To reiterate, in the context of a claim of retaliation, the question is not whether the plaintiff was actually deterred but whether the defendant’s actions would have deterred a person of ordinary firmness.” (*Tichinin, supra*, 177 Cal.App.4th at p. 1082.)
- “Intent to inhibit speech, which ‘is an element of the [retaliation] claim,’ can be demonstrated either through direct or circumstantial evidence.” (*Mendocino Env’tl. Ctr. v. Mendocino County* (9th Cir. 1999) 192 F.3d 1283, 1300–1301, internal citation omitted.)
- “[Defendant] may avoid liability if he shows that a ‘final decision maker’s independent investigation and termination decision, responding to a biased subordinate’s initial report of misconduct, . . . negate[s] any causal link’ between his retaliatory motive and the adverse employment action. This is because a final decision maker’s wholly independent investigation and decision establish that ‘the employee’s protected speech was not a but-for cause of the adverse employment action.’ ” (*Karl v. City of Mountlake Terrace* (9th Cir. 2012) 678 F.3d 1062, 1072–1073, internal citation omitted.)
- “While the scope, severity and consequences of [their] actions are belittled by defendants, we have cautioned that ‘a government act of retaliation need not be severe . . . [nor] be of a certain kind’ to qualify as an adverse action.” (*Marez v. Bassett* (9th Cir. 2010), 595 F.3d 1068, 1075.)

Secondary Sources

8 Witkin, Summary of California Law (11th ed. 2017) Constitutional Law, §§ 894, 895, 978

2 Wilcox, California Employment Law, Ch. 40, *Overview of Equal Opportunity Laws*, § 40.26 (Matthew Bender)

3 Civil Rights Actions, Ch. 17, *Discrimination in Federally Assisted Programs*, ¶ 17.24B (Matthew Bender)

4 Civil Rights Actions, Ch. 21A, *Employment Discrimination Based on Race, Color, Religion, Sex, or National Origin*, ¶ 21.22(1)(f) (Matthew Bender)

11 California Forms of Pleading and Practice, Ch. 115, *Civil Rights: Employment Discrimination*, § 115.37 (Matthew Bender)

10 California Points and Authorities, Ch. 100, *Employer and Employee: Wrongful Termination and Discipline*, §§ 100.42, [100.47](#) (Matthew Bender)

3103. Neglect—Essential Factual Elements (Welf. & Inst. Code, § 15610.57)

[Name of plaintiff] claims that *[he/she/nonbinary pronoun/[name of decedent]]* was neglected by *[[name of individual defendant]/ [and] [name of employer defendant]]* in violation of the Elder Abuse and Dependent Adult Civil Protection Act. To establish this claim, *[name of plaintiff]* must prove all of the following:

1. That *[[name of individual defendant]/[name of employer defendant]]*'s employee had a substantial caretaking or custodial relationship with *[name of plaintiff/decedent]*, involving ongoing responsibility for *[his/her/nonbinary pronoun]* basic needs, which an able-bodied and fully competent adult would ordinarily be capable of managing without assistance;
 2. That *[name of plaintiff/decedent]* was *[65 years of age or older/a dependent adult]* while *[he/she/nonbinary pronoun]* was in *[[name of individual defendant]'s/[name of employer defendant]]*'s employee's care or custody;
 3. That *[[name of individual defendant]/[name of employer defendant]]*'s employee failed to use the degree of care that a reasonable person in the same situation would have used in providing for *[name of plaintiff/decedent]*'s basic needs, including *[insert one or more of the following:]*
 - [assisting in personal hygiene or in the provision of food, clothing, or shelter;]*
 - [providing medical care for physical and mental health needs;]*
 - [protecting [name of plaintiff/decedent] from health and safety hazards;]*
 - [preventing malnutrition or dehydration;]*
 - [insert other grounds for neglect;]*
 4. That *[name of plaintiff/decedent]* was harmed; and
 5. That *[[name of individual defendant]'s/[name of employer defendant]]*'s employee's conduct was a substantial factor in causing *[name of plaintiff/decedent]*'s harm.
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New September 2003; Revised December 2005, June 2006, October 2008, January 2017

Directions for Use

This instruction may be given in cases brought under the Elder Abuse and Dependent Adult Civil Protection Act (the Act) by the victim of elder neglect, or by the survivors of the victim. If the victim is the plaintiff and is seeking damages for pain and suffering, see CACI No. 3905A, *Physical Pain, Mental Suffering, and Emotional Distress (Noneconomic Damage)*, in the Damages series.

If the plaintiff seeks the enhanced remedies of attorney fees and costs, and in the case of a wrongful death, the decedent's pain and suffering, give CACI No. 3104, *Neglect—Enhanced Remedies Sought*, in addition to this instruction. (See Welf. & Inst. Code, § 15657.)

If the individual responsible for the neglect is a defendant in the case, use “[*name of individual defendant*]” throughout. If only the individual's employer is a defendant, use “[*name of employer defendant*]’s employee” throughout.

If the plaintiff is seeking enhanced remedies against the individual's employer, also give either CACI No. 3102A, *Employer Liability for Enhanced Remedies—Both Individual and Employer Defendants*, or CACI No. 3102B, *Employer Liability for Enhanced Remedies—Employer Defendant Only*. To recover damages against the employer under a theory of vicarious liability, see instructions in the Vicarious Responsibility series (CACI No. 3700 et seq.).

The Act does not extend to cases involving professional negligence against health-care providers as defined by the California Medical Injury Compensation Reform Act of 1975 (MICRA) unless the professional had a substantial caretaking or custodial relationship with the elder or dependent adult patient, involving ongoing responsibility for one or more basic needs. (*Winn v. Pioneer Medical Group, Inc.* (2016) 63 Cal.4th 148, 152 [202 Cal.Rptr.3d 447, 370 P.3d 1011]; see Welf. & Inst. Code, § 15657.2; Civ. Code, § 3333.2(c)(2).)

The instructions in this series are not intended to cover every circumstance in which a plaintiff may bring a cause of action under the Elder Abuse and Dependent Adult Civil Protection Act.

Sources and Authority

- “Elder Abuse” Defined. Welfare and Institutions Code section 15610.07.
- “Dependent Adult” Defined. Welfare and Institutions Code section 15610.23.
- “Elder” Defined. Welfare and Institutions Code section 15610.27.
- “Neglect” Defined. Welfare and Institutions Code section 15610.57.
- Claims for Professional Negligence Excluded. Welfare and Institutions Code section 15657.2.
- “It is true that statutory elder abuse includes ‘neglect as defined in Section 15610.57,’ which in turn includes negligent failure of an elder custodian ‘to provide medical care for [the elder’s] physical and mental health needs.’ ... ‘[N]eglect’ within the meaning of Welfare and Institutions Code section 15610.57 covers an area of misconduct distinct from ‘professional negligence.’ As used in the Act, neglect refers not to the substandard performance of medical services but, rather, to the ‘failure of those responsible for attending to the basic needs and comforts of elderly or dependent adults, regardless of their professional standing, to carry out their custodial obligations.’ Thus, the statutory definition of ‘neglect’ speaks not of the *undertaking* of medical services, but of the failure to *provide* medical care.” (*Covenant Care, Inc. v. Superior Court* (2004) 32 Cal.4th 771, 783 [11 Cal.Rptr.3d 222, 86 P.3d 290], original italics, internal citations omitted.)

- “The Elder Abuse Act does not ‘apply *whenever* a doctor treats any elderly patient. Reading the act in such a manner would radically transform medical malpractice liability relative to the existing scheme.’ ” (*Alexander v. Scripps Memorial Hospital La Jolla* (2018) 23 Cal.App.5th 206, 223 [232 Cal.Rptr.3d 733], original italics.)
- “We granted review to consider whether a claim of neglect under the Elder Abuse Act requires a caretaking or custodial relationship—where a person has assumed significant responsibility for attending to one or more of those basic needs of the elder or dependent adult that an able-bodied and fully competent adult would ordinarily be capable of managing without assistance. Taking account of the statutory text, structure, and legislative history of the Elder Abuse Act, we conclude that it does.” (*Winn, supra*, 63 Cal.4th at p. 155.)
- “[T]he Act does not apply unless the defendant health care provider had a substantial caretaking or custodial relationship, involving ongoing responsibility for one or more basic needs, with the elder patient. It is the nature of the elder or dependent adult's relationship with the defendant—not the defendant's professional standing—that makes the defendant potentially liable for neglect.” (*Winn, supra*, 63 Cal.4th at p. 152.)
- “It must be determined, on a case-by-case basis, whether the specific responsibilities assumed by a defendant were sufficient to give rise to a substantial caretaking or custodial relationship. The fact that [another caregiver] provided for a large number of decedent’s basic needs does not, in itself, serve to insulate defendants from liability under the Elder Abuse Act if the services they provided were sufficient to give rise to a substantial caretaking or custodial relationship.” (*Oroville Hospital v. Superior Court* (2022) 74 Cal.App.5th 382, 405 [- Cal.Rptr.3d -].)
- “The Act seems premised on the idea that certain situations place elders and dependent adults at heightened risk of harm, and heightened remedies relative to conventional tort remedies are appropriate as a consequence. Blurring the distinction between neglect under the Act and conduct actionable under ordinary tort remedies—even in the absence of a care or custody relationship—risks undermining the Act's central premise. Accordingly, plaintiffs alleging professional negligence may seek certain tort remedies, though not the heightened remedies available under the Elder Abuse Act.” (*Winn, supra*, 63 Cal.4th at p. 159, internal citation omitted.)
- “ ‘[I]t is the defendant's relationship with an elder or a dependent adult—not the defendant's professional standing or expertise—that makes the defendant potentially liable for neglect.’ For these reasons, *Winn* better supports the conclusion that the majority of [defendant]'s interactions with decedent were custodial. [Defendant] has cited no authority allowing or even encouraging a court to assess care and custody status on a task-by-task basis, and the *Winn* court's focus on the extent of dependence by a patient on a health care provider rather than on the nature of the particular activities that comprised the patient-provider relationship counsels against adopting such an approach.” (*Stewart v. Superior Court* (2017) 16 Cal.App.5th 87, 103–104 [224 Cal.Rptr.3d 219].)
- “The purpose of the [Elder Abuse Act] is essentially to protect a particularly vulnerable portion of the population from gross mistreatment in the form of abuse and custodial neglect.” (*Delaney v. Baker* (1999) 20 Cal.4th 23, 33 [82 Cal.Rptr.2d 610, 971 P.2d 986].)

- “Neglect includes the failure to assist in personal hygiene, or in the provision of food, clothing, or shelter; the failure to provide medical care for physical and mental health needs; the failure to protect from health and safety hazards; and the failure to prevent malnutrition or dehydration.” (*Avila v. Southern California Specialty Care, Inc.* (2018) 20 Cal.App.5th 835, 843 [230 Cal.Rptr.3d 42].)
- “[T]he statutory definition of neglect set forth in the first sentence of Welfare and Institutions Code section 15610.57 is substantially the same as the ordinary definition of neglect.” (*Conservatorship of Gregory v. Beverly Enterprises, Inc.* (2000) 80 Cal.App.4th 514, 521 [95 Cal.Rptr.2d 336].)
- “[N]eglect as a form of abuse under the Elder Abuse Act refers ‘to the failure of those responsible for attending to the basic needs and comforts of elderly or dependent adults, regardless of their professional standing, to carry out their custodial obligations.’ ” (*Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 404 [129 Cal.Rptr.3d 895].)
- “It seems to us, then, that respecting the patient's right to consent or object to surgery is a necessary component of ‘provid[ing] medical care for physical and mental health needs.’ Conversely, depriving a patient of the right to consent to surgery could constitute a failure to provide a necessary component of what we think of as ‘medical care.’ ” (*Stewart, supra*, 16 Cal.App.5th at p. 107, internal citation omitted.)
- “[A] violation of staffing regulations here may provide a basis for finding neglect. Such a violation might constitute a negligent failure to exercise the care that a similarly situated reasonable person would exercise, or it might constitute a failure to protect from health and safety hazards The former is the definition of neglect under the Act, and the latter is just one nonexclusive example of neglect under the Act.” (*Fenimore v. Regents of University of California* (2016) 245 Cal.App.4th 1339, 1348–1349 [200 Cal.Rptr.3d 345].)
- “Disagreements between physicians and the patient or surrogate about the type of care being provided does not give rise to an elder abuse cause of action.” (*Alexander, supra*, 23 Cal.App.5th at p. 223.)

Secondary Sources

6 Witkin, Summary of California Law (11th ed. 2017) Torts, §§ ~~1865, 1869–1871~~1865–1871

California Elder Law Litigation (Cont.Ed.Bar 2003) §§ 2.70–2.71

3 Levy et al., California Torts, Ch. 31 *Liability of Physicians and Other Medical Practitioners*, § 31.50[4][d] (Matthew Bender)

1 California Forms of Pleading and Practice, Ch. 5, *Abuse of Minors and Elderly*, § 5.33[3] (Matthew Bender)

3107. Physical Abuse—Enhanced Remedies Sought (Welf. & Inst. Code, § 15657)

[*Name of plaintiff*] also seeks to recover [attorney fees and costs/ [and] damages for [*name of decedent*]'s pain and suffering]. To recover these remedies, [*name of plaintiff*] must prove all of the requirements for the physical abuse by clear and convincing evidence, and must also prove by clear and convincing evidence that [[*name of individual defendant*]/[*name of employer defendant*]'s employee] acted with [recklessness/oppression/fraud/ [or] malice] in physically abusing [*name of plaintiff*].

[If [*name of plaintiff*] proves the above, I will decide the amount of attorney fees and costs.]

New September 2003; Revised June 2005, October 2008

Directions for Use

Give this instruction along with CACI No. 3106, *Physical Abuse—Essential Factual Elements*, if the plaintiff seeks the enhanced remedies of attorney fees and costs and damages for the decedent's predeath pain and suffering. (See Welf. & Inst. Code, § 15657.)

If the individual responsible for the physical abuse is a defendant in the case, use “[*name of individual defendant*].” If only the individual's employer is a defendant, use “[*name of employer defendant*]'s employee.”

If the plaintiff is seeking enhanced remedies against the individual's employer, also give CACI No. 3102A, *Employer Liability for Enhanced Remedies—Both Individual and Employer Defendants*, or CACI No. 3102B, *Employer Liability for Enhanced Remedies—Employer Defendant Only*.

The instructions in this series are not intended to cover every circumstance in which a plaintiff may bring a cause of action under the Elder Abuse and Dependent Adult Civil Protection Act.

Sources and Authority

- Enhanced Remedies for Physical Abuse. Welfare and Institutions Code section 15657.
- “In order to obtain the remedies available in section 15657, a plaintiff must demonstrate by clear and convincing evidence that defendant is guilty of something more than negligence; he or she must show reckless, oppressive, fraudulent, or malicious conduct. The latter three categories involve ‘intentional,’ ‘willful,’ or ‘conscious’ wrongdoing of a ‘despicable’ or ‘injurious’ nature. [¶] ‘Recklessness’ refers to a subjective state of culpability greater than simple negligence, which has been described as a ‘deliberate disregard’ of the ‘high degree of probability’ that an injury will occur. Recklessness, unlike negligence, involves more than ‘inadvertence, incompetence, unskillfulness, or a failure to take precautions’ but rather rises to the level of a ‘conscious choice of a course of action ... with knowledge of the serious danger to others involved in it.’ ” (*Delaney v. Baker* (1999) 20 Cal.4th 23, 31–32 [82 Cal.Rptr.2d 610, 971 P.2d 986], internal citations omitted.)

- “As amended in 1991, the Elder Abuse Act was designed to protect elderly and dependent persons from abuse, neglect, or abandonment. In addition to adopting measures designed to encourage reporting of abuse and neglect, the Act authorizes the court to award attorney fees to the prevailing plaintiffs and allows survivors to recover pain and suffering damages in cases of intentional and reckless abuse where the elder has died.” (*Mack v. Soung* (2000) 80 Cal.App.4th 966, 971–972 [95 Cal.Rptr.2d 830], disapproved on other grounds in *Winn v. Pioneer Medical Group, Inc.* (2016) 63 Cal.4th 148, 164 [202 Cal.Rptr.3d 447, 370 P.3d 1011], internal citations omitted.)
- “The effect of the 1991 amendment to the elder abuse law was to ... permit a decedent’s personal representative or successor to recover pain and suffering damages when plaintiff can prove by clear and convincing evidence recklessness, oppression, fraud, or malice in the commission of elder abuse. Even then, those damages would be subject to the \$250,000 cap placed by Civil Code section 3333.2, subdivision (b) for noneconomic damages against a health care provider. In this limited circumstance, the decedent’s right to pain and suffering damages would not die with him or her; the damages would be recoverable by a survivor.” (*ARA Living Centers—Pacific, Inc. v. Superior Court* (1993) 18 Cal.App.4th 1556, 1563 [23 Cal.Rptr.2d 224].)
- “The Elder Abuse Act provides enhanced remedies for victims. A prevailing plaintiff is entitled to an award of attorney fees. A deceased victim’s successor is entitled to an award of some noneconomic damages. There is no basis for interpreting the Elder Abuse Act as restricting an award of damages for those fortunate enough to have survived the abuse.” (*Samantha B. v. Aurora Vista Del Mar, LLC* (2022) 77 Cal.App.5th 85, 104 [292 Cal.Rptr.3d 324], internal citations omitted.)
- “[I]f the neglect is ‘reckless[,]’ or done with ‘oppression, fraud or malice,’ then the action falls within the scope of section 15657 and as such cannot be considered simply ‘based on ... professional negligence’ within the meaning of section 15657.2. The use of such language in section 15657, and the explicit exclusion of ‘professional negligence’ in section 15657.2, make clear the Elder Abuse Act’s goal was to provide heightened remedies for, as stated in the legislative history, ‘acts of egregious abuse’ against elder and dependent adults, while allowing acts of negligence in the rendition of medical services to elder and dependent adults to be governed by laws specifically applicable to such negligence. That only these egregious acts were intended to be sanctioned under section 15657 is further underscored by the fact that the statute requires liability to be proved by a heightened ‘clear and convincing evidence’ standard.” (*Delaney, supra*, 20 Cal.4th at p. 35, internal citation omitted.)
- “‘Liability’ under section 15657 includes as an element ‘causation,’ which, as all elements of liability, must be proved by clear and convincing evidence for purposes of an award of attorney fees.” (*Perlin v. Fountain View Management, Inc.* (2008) 163 Cal.App.4th 657, 664 [77 Cal.Rptr.3d 743].)
- “We reject plaintiffs’ argument that a violation of the Act does not constitute an independent cause of action. Accordingly, plaintiffs’ failure to obtain a verdict establishing causation—one element of liability—by clear and convincing evidence, precludes an award of attorney fees.” (*Perlin, supra*, 163 Cal.App.4th at p. 666.)

Secondary Sources

6 Witkin, Summary of California Law (11th ed. 2017) Torts, §§ 1865–1871

Balisok, Civil Litigation Series: Elder Abuse Litigation, §§ 9:1, 9:9, 9:28 (The Rutter Group)

California Elder Law Litigation (Cont.Ed.Bar 2003) § 2.72

1 California Forms of Pleading and Practice, Ch. 5, *Abuse of Minors and Elderly*, §§ 5.35, 5.37 (Matthew Bender)

3201. Failure to Promptly Repurchase or Replace New Motor Vehicle After Reasonable Number of Repair Opportunities—Essential Factual Elements (Civ. Code, § 1793.2(d))

[Name of plaintiff] claims that *[name of defendant]* failed to promptly repurchase or replace *[a/an]* *[new motor vehicle]* after a reasonable number of repair opportunities. To establish this claim, *[name of plaintiff]* must prove all of the following:

1. That *[name of plaintiff]* **[bought/leased]** *[a/an]* *[new motor vehicle]* **[from/distributed by/manufactured by]** *[name of defendant]*;
2. That *[name of defendant]* **gave** *[name of plaintiff]* **a written warranty that** *[describe alleged express warranty]*;
3. That the vehicle had **[a]** defect[s] that **[was/were]** covered by the warranty and that substantially impaired its use, value, or safety to a reasonable person in *[name of plaintiff]*'s situation;
4. **[That** *[name of plaintiff]* **delivered the vehicle to** *[name of defendant]* **or its authorized repair facility for repair of the defect[s];]**

[or]

[That *[name of plaintiff]* **notified** *[name of defendant]* **in writing of the need for repair of the defect[s] because** *[he/she/nonbinary pronoun]* **reasonably could not deliver the vehicle to** *[name of defendant]* **or its authorized repair facility because of the nature of the defect[s];]**

5. That *[name of defendant]* **or its authorized repair facility failed to repair the vehicle to match the written warranty after a reasonable number of opportunities to do so; and**
6. That *[name of defendant]* **did not promptly replace or buy back the vehicle.**

[It is not necessary for *[name of plaintiff]* **to prove the cause of a defect in the** *[new motor vehicle]*.]

[A written warranty need not include the words “warranty” or “guarantee,” but if those words are used, a warranty is created. It is also not necessary for *[name of defendant]* **to have specifically intended to create a warranty. A warranty is not created if** *[name of defendant]* **simply stated the value of the vehicle or gave an opinion about the vehicle. General statements concerning customer satisfaction do not create a warranty.]**

New September 2003; Revised February 2005, December 2005, April 2007, December 2007, December 2011

Directions for Use

If remedies are sought under the California Uniform Commercial Code, the plaintiff may be required to prove reasonable notification within a reasonable time. (Cal. U. Com. Code, § 2607(3).) If the court determines that proof is necessary, add the following element to this instruction:

That [*name of plaintiff*] took reasonable steps to notify [*name of defendant*] within a reasonable time that the [*new motor vehicle*] had a defect covered by the warranty;

See also CACI No. 1243, *Notification/Reasonable Time*.

Regarding element 4, if the plaintiff claims that the consumer goods could not be delivered for repair, the judge should decide whether written notice of nonconformity is required. The statute, Civil Code section 1793.2(c), is unclear on this point.

Include the bracketed sentence preceding the final bracketed paragraph if appropriate to the facts. The Song-Beverly Consumer Warranty Act does not require a consumer to prove the cause of the defect or failure, only that the consumer good “did not conform to the express warranty.” (See *Oregel v. American Isuzu Motors, Inc.* (2001) 90 Cal.App.4th 1094, 1102, fn. 8 [109 Cal.Rptr.2d 583].)

In addition to sales of consumer goods, the Consumer Warranty Act applies to leases. (Civ. Code, §§ 1791(g)-(i), 1795.4.) This instruction may be modified for use in cases involving an express warranty in a lease of a motor vehicle.

See also CACI No. 3202, “*Repair Opportunities*” Explained, CACI No. 3203, *Reasonable Number of Repair Opportunities—Rebuttable Presumption*, and CACI No. 3204, “*Substantially Impaired*” Explained.

Sources and Authority

- Song-Beverly Consumer Warranty Act: Right of Action. Civil Code section 1794(a).
- Extension of Warranty Period. Civil Code section 1793.1(a)(2).
- Song-Beverly Does Not Preempt Commercial Code. Civil Code section 1790.3.
- “Express Warranty” Defined. Civil Code section 1791.2.
- Express Warranty Made by Someone Other Than Manufacturer. Civil Code section 1795.
- “New Motor Vehicle” Defined. Civil Code section 1793.22(e)(2).
- Replacement or Reimbursement After Reasonable Number of Repair Attempts. Civil Code section 1793.2(d)(2).
- Buyer’s Delivery of Nonconforming Goods. Civil Code section 1793.2(c).

- Extension of Warranty. Civil Code section 1793.1(a)(2).
- Tolling of Warranty Period for Nonconforming Goods. Civil Code section 1795.6.
- “ ‘The Song-Beverly Act is a remedial statute designed to protect consumers who have purchased products covered by an express warranty. ... One of the most significant protections afforded by the act is ... that “if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer” ...’ In providing these remedies, the Legislature has not required that the consumer maintain possession of the goods at all times. All that is necessary is that the consumer afford the manufacturer a reasonable number of attempts to repair the goods to conform to the applicable express warranties.” (*Martinez v. Kia Motors America, Inc.* (2011) 193 Cal.App.4th 187, 191 [122 Cal.Rptr.3d 497], internal citation omitted.)
- “Broadly speaking, the Act regulates warranty terms; imposes service and repair obligations on manufacturers, distributors and retailers who make express warranties; requires disclosure of specified information in express warranties; and broadens a buyer’s remedies to include costs, attorney fees and civil penalties. ... [¶] [T]he purpose of the Act has been to provide broad relief to purchasers of consumer goods with respect to warranties.” (*National R.V., Inc. v. Foreman* (1995) 34 Cal.App.4th 1072, 1080 [40 Cal.Rptr.2d 672].)
- “A plaintiff pursuing an action under the Act has the burden to prove that (1) the vehicle had a nonconformity covered by the express warranty that substantially impaired the use, value or safety of the vehicle (the nonconformity element); (2) the vehicle was presented to an authorized representative of the manufacturer of the vehicle for repair (the presentation element); and (3) the manufacturer or his representative did not repair the nonconformity after a reasonable number of repair attempts (the failure to repair element).” (*Donlen v. Ford Motor Co.* (2013) 217 Cal.App.4th 138, 152 [158 Cal.Rptr.3d 180].)
- ~~The Song-Beverly Act does not apply unless the vehicle was purchased in California.~~ “Although the Act treats motor vehicles differently from other types of consumer goods in several ways, we find no indication that the Legislature intended to treat motor vehicles differently with respect to the limitation on the Act’s coverage to goods sold in California.” (*Cummins, Inc. v. Superior Court* (2005) 36 Cal.4th 478, 490-491 [30 Cal.Rptr.3d 823, 115 P.3d 98].)
- “Under well-recognized rules of statutory construction, the more specific definition [of ‘new motor vehicle’] found in the current section 1793.22 governs the more general definition [of ‘consumer goods’] found in section 1791.” (*Jensen v. BMW of North America, Inc.* (1995) 35 Cal.App.4th 112, 126 [41 Cal.Rptr.2d 295].)
- “ ‘Nonconformity’ is defined as ‘a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.’ The term is similar to what the average person would understand to be a ‘defect.’ ” (*Schreidel v. American Honda Motor Co.* (1995) 34 Cal.App.4th 1242, 1249 [40 Cal.Rptr.2d 576], internal citation omitted; see also *Robertson v. Fleetwood Travel Trailers of California, Inc.* (2006) 144 Cal.App.4th 785, 801, fn. 11 [50 Cal.Rptr.3d 731]

[nonconformity can include entire complex of related conditions].)

- “The issue of whether the problems constituted substantial impairment is one for the trier of fact.” (*Schreidel, supra*, 34 Cal.App.4th at p. 1250.)
- “[S]ection 1793.2, subdivision (d)(2), differs from section 1793.2, subdivision (d)(1), in that it gives the new motor vehicle consumer the right to elect restitution in lieu of replacement; provides specific procedures for the motor vehicle manufacturer to follow in the case of replacement and in the case of restitution; and sets forth rules for offsetting the amount attributed to the consumer’s use of the motor vehicle. These ‘Lemon Law’ provisions clearly provide greater consumer protections to those who purchase new motor vehicles than are afforded under the general provisions of the Act to those who purchase other consumer goods under warranty.” (*National R. V., Inc., supra*, 34 Cal.App.4th at p. 1079, internal citations and footnotes omitted.)
- “[W]e conclude the phrase ‘other motor vehicles sold with a manufacturer’s new car warranty’ refers to cars sold with a full warranty, not to previously sold cars accompanied by some balance of the original warranty. We therefore conclude the trial judge was correct to conclude plaintiffs’ truck does not meet the definition of ‘new motor vehicle.’ ” (*Rodriguez v. FCA US, LLC* (2022) 77 Cal.App.5th 209, 225 [292 Cal.Rptr.3d 382], review granted July 13, 2022, S273143.)
- The act does not require a consumer to give a manufacturer, in addition to its local representative, at least one opportunity to fix a problem. Regarding previous repair efforts entitling an automobile buyer to reimbursement, “[t]he legislative history of [Civil Code section 1793.2] demonstrates beyond any question that ... a differentiation between manufacturer and local representative is unwarranted.” (*Ibrahim v. Ford Motor Co.* (1989) 214 Cal.App.3d 878, 888 [263 Cal.Rptr. 64].)
- “[T]he only affirmative step the Act imposes on consumers is to ‘permit[] the manufacturer a reasonable *opportunity* to repair the vehicle.’ ” (*Oregel, supra*, 90 Cal.App.4th at p. 1103, original italics, internal citation omitted.)
- “[T]he Act does not *require* consumers to take any affirmative steps to secure relief for the failure of a manufacturer to service or repair a vehicle to conform to applicable warranties—other than, of course, permitting the manufacturer a reasonable opportunity to repair the vehicle. ... In reality, ... , the manufacturer seldom on its own initiative offers the consumer the options available under the Act: a replacement vehicle or restitution. Therefore, as a practical matter, the consumer will likely request replacement or restitution. But the consumer’s request is not mandated by any provision in the Act. Rather, the consumer’s request for replacement or restitution is often prompted by the manufacturer’s unforthright approach and stonewalling of fundamental warranty problems.” (*Lukather v. General Motors, LLC* (2010) 181 Cal.App.4th 1041, 1050 [104 Cal.Rptr.3d 853], original italics.)
- “[Defendant] argues allowing evidence of postwarranty repairs extends the term of its warranty to whatever limit an expert is willing to testify. We disagree. Evidence that a problem was fixed for a period of time but reappears at a later date is relevant to determining whether a fundamental problem in the vehicle was ever resolved. Indeed, that a defect first appears after a warranty has expired does not necessarily mean the defect did not exist when the product was purchased. Postwarranty repair evidence may be admitted on a case-by-case basis where it is relevant to showing the vehicle was not

repaired to conform to the warranty during the warranty's existence.” (*Donlen, supra*, 217 Cal.App.4th at p. 149, internal citations omitted.)

- “[W]e hold that registration renewal and nonoperation fees are not recoverable as collateral charges under section 1793.2, subdivision (d)(2)(B), part of the Act because they are not collateral to the price paid for the vehicle, but they are recoverable as incidental damages under section 1794, part of the Act if they were incurred and paid as a result of a manufacturer’s failure to promptly provide a replacement vehicle or restitution under section 1793.2, subdivision (d)(2).” (*Kirzhner v. Mercedes-Benz USA, LLC* (2020) 9 Cal.5th 966, 987 [266 Cal.Rptr.3d 346, 470 P.3d 56].)

Secondary Sources

4 Witkin, Summary of California Law (11th ed. 2017) Sales, §§ 52, 57, ~~321–334~~325

1 California UCC Sales and Leases (Cont.Ed.Bar) Warranties, §§ 7.4, 7.8, 7.15, 7.87; *id.*, Prelitigation Remedies, § 13.68; *id.*, Litigation Remedies, § 14.25, *id.*, Division 10: Leasing of Goods, § 17.31

8 California Forms of Pleading and Practice, Ch. 91, *Automobiles: Actions Involving Defects and Repairs*, §§ 91.15, 91.18 (Matthew Bender)

20 California Points and Authorities, Ch. 206, *Sales*, § 206.104 (Matthew Bender)

California Civil Practice: Business Litigation §§ 53:1, 53:3–53:4, 53:10–53:11, 53:14–53:17, 53:22–53:23, 53:26–53:27 (Thomson Reuters)

3726. Going-and-Coming Rule—Business-Errand Exception

In general, an employee is not acting within the scope of employment while traveling to and from the workplace. But if the employee, while commuting, is on an errand for the employer, then the employee’s conduct is within the scope of the employee’s employment from the time the employee starts on the errand until the employee returns from the errand or until the employee completely abandons the errand for personal reasons.

In determining whether an employee has completely abandoned a business errand for personal reasons, you may consider the following:

- a. The intent of the employee;**
 - b. The nature, time, and place of the employee’s conduct;**
 - c. The work the employee was hired to do;**
 - d. The incidental acts the employer should reasonably have expected the employee to do;**
 - e. The amount of freedom allowed the employee in performing the employee’s duties; [and]**
 - f. The amount of time consumed in the personal activity [./; and]**
 - g. [specify other factors, if any].**
-

New September 2003; Revised June 2014, June 2017; Revised and Renumbered from CACI No. 3724 November 2017; Revised May 2020

Directions for Use

This instruction sets forth the business errand exception to the going-and-coming rule, sometimes called the “special errand” or “special mission” exception. (*Sumrall v. Modern Alloys, Inc.* (2017) 10 Cal.App.5th 961, 968, fn. 1 [216 Cal.Rptr.3d 848]; see *Pierson v. Helmerich & Payne Internat. Drilling Co.* (2016) 4 Cal.App.5th 608, 632–633, fn.6 [209 Cal.Rptr.3d 222] [citing this instruction].) It may be given with CACI No. 3720, *Scope of Employment*.

Under the going-and-coming rule, commute time is not within the scope of employment. However, if the employee is engaged in a “special errand” or a “special mission” for the employer while commuting, it will negate the going-and-coming rule and put the employee within the scope of employment. (*Jeewarat v. Warner Brothers Entertainment, Inc.* (2009) 177 Cal.App.4th 427, 435–436 [98 Cal.Rptr.3d 837].)

Scope of employment ends once the employee abandons or substantially deviates from the special errand. The second paragraph sets forth factors that the jury may consider in determining whether there has been abandonment of a business errand. (See *Moradi v. Marsh USA, Inc.* (2013) 219 Cal.App.4th 886, 907

[162 Cal.Rptr.3d 280] [opinion may be read to suggest that for the business-errand exception, CACI No. 3723, *Substantial Deviation*, should not be given].)

Sources and Authority

- “ ‘An offshoot of the doctrine of respondeat superior is the so-called “going and coming rule.” Under this rule, an employee is not regarded as acting within the scope of employment while going to or coming from the workplace. ... This is based on the concept that the employment relationship is suspended from the time the employee leaves work until he or she returns, since the employee is not ordinarily rendering services to the employer while traveling. ... ’ ” (*Jeewarat, supra*, 177 Cal.App.4th at p. 435.)
- “ ‘The *special-errand* exception to the going-and-coming rule is stated as follows: “If the employee is not simply on his way from his home to his normal place of work or returning from said place to his home for his own purpose, but is coming from his home or returning to it on a *special errand* either as part of his regular duties or at a specific order or request of his employer, the employee is considered to be in the scope of his employment from the time that he starts on the errand until he has returned or until he deviates therefrom for personal reasons.” ’ ” (*Moradi, supra*, 219 Cal.App.4th at p. 906, original italics.)
- “ ‘When an employee is engaged in a ‘special errand’ or a ‘special mission’ for the employer it will negate the ‘going and coming rule.’ ... The employer is ‘liable for torts committed by its employee while traveling to accomplish a special errand because the errand benefits the employer. ... ’ ” (*Jeewarat, supra*, 177 Cal.App.4th at p. 436, internal citations omitted.)
- “ ‘The term ‘special errand’ is something of a misnomer because it implies that the employer must make a specific request for a particular errand. However, the ‘special errand’ can also be part of the employee’s regular duties. Thus, we have chosen to use the term ‘business errand’ throughout this opinion, as it is more precise and descriptive.” (*Sumrall, supra*, 10 Cal.App.5th at p. 968 fn.1, internal citation omitted.)
- “The special [errand] exception requires three factors to be met: (1) the activity is extraordinary in relation to the employee’s routine duties, (2) the activity is within the course of the employee’s employment, and (3) the activity was undertaken at the express or implied request of the employer and for the employer’s benefit.” (*Feltham v. Universal Protection Service, LP* (2022) 76 Cal.App.5th 1062, 1072 [292 Cal.Rptr.3d 183], internal citation omitted.)
- “[T]he jury’s instruction on the business errand exception explains it concisely:” (*Sumrall, supra*, 10 Cal.App.5th at p. 969, quoting this instruction.)
- “It is not necessary that the employee is directly engaged in his job duties; included also are errands that incidentally or indirectly benefit the employer. It is essential, however, that the errand be either part of the employee’s regular duties or undertaken at the specific request of the employer.” (*Morales-Simental v. Genentech, Inc.* (2017) 16 Cal.App.5th 445, 452–453 [224 Cal.Rptr.3d 319], internal citation omitted.)

- “[T]he mere fact that a trip may be related to an employee’s job does not impose liability on the employer. . . . [T]o bring an employee’s trip within the special errand exception, the employer must request or at least expect it of the employee.” (*Morales-Simental, supra*, 16 Cal.App.5th at p. 455, internal citation omitted.)
- “[Plaintiffs] assert that [employee], as a supervisory employee tasked with hiring, had authority to act on [employer]’s behalf and, in essence, request himself to complete a special errand connected to that task. This argument finds no support in the extensive body of going and coming case law, and we decline plaintiffs’ invitation to expand the special errand exception in the manner they suggest. What they propose is an invitation to self-serving pretense by anyone with a plausible claim to supervisory authority.” (*Morales-Simental, supra*, 16 Cal.App.5th at p. 456.)
- “[I]n determining whether an employee has completely abandoned pursuit of a *business errand* for pursuit of a personal objective, a variety of relevant circumstances should be considered and weighed. Such factors may include [(1)] the intent of the employee, [(2)] the nature, time and place of the employee’s conduct, [(3)] the work the employee was hired to do, [(4)] the incidental acts the employer should reasonably have expected the employee to do, [(5)] the amount of freedom allowed the employee in performing his duties, and [(6)] the amount of time consumed in the personal activity. . . . While the question of whether an employee has departed from his *special errand* is normally one of fact for the jury, where the evidence clearly shows a complete abandonment, the court may make the determination that the employee is outside the scope of his employment as a matter of law.” (*Moradi, supra*, 219 Cal.App.4th at p. 907, original italics.)
- “Several general examples of the special-errand exception appear in the cases. One would be where an employee goes on a business errand for his employer leaving from his workplace and returning to his workplace. Generally, the employee is acting within the scope of his employment while traveling to the location of the errand and returning to his place of work. The exception also may be applicable to the employee who is called to work to perform a special task for the employer at an irregular time. The employee is within the scope of his employment during the entire trip from his home to work and back to his home. The exception is further applicable where the employer asks an employee to perform a special errand after the employee leaves work but before going home. In this case, as in the other examples, the employee is normally within the scope of his employment while traveling to the special errand and while traveling home from the special errand.” (*Felix v. Asai* (1987) 192 Cal.App.3d 926, 931–932 [237 Cal.Rptr. 718], internal citations omitted.)
- “Plaintiffs contend an employee’s attendance at an out-of-town business conference authorized and paid for by the employer may be a special errand for the benefit of the employer under the special errand doctrine. [Defendant] asserts that the special errand doctrine does not apply to commercial travel. We conclude that a special errand may include commercial travel such as the business trip in this case.” (*Jeewarat, supra*, 177 Cal.App.4th at p. 436.)
- “An employee who has gone upon a special errand does not cease to be acting in the course of his employment upon his accomplishment of the task for which he was sent. He is in the course of his employment during the entire trip.” (*Trejo v. Maciel* (1966) 239 Cal.App.2d 487, 495 [48 Cal.Rptr. 765].)

- “Whether the transit is part of the employment relationship tends to be a more subtle issue than whether the transit was between home and work. . . . ‘These are the extraordinary transits that vary from the norm because the employer requires a special, different transit, means of transit, or use of a car, for some particular reason of his own. When the employer gains that kind of a particular advantage, the job does more than call for routine transport to it; it plays a different role, bestowing a special benefit upon the employer by reason of the extraordinary circumstances. The employer’s special request, his imposition of an unusual condition, removes the transit from the employee’s choice or convenience and places it within the ambit of the employer’s choice or convenience, restoring the employer-employee relationship.’ ” (*Zhu v. Workers’ Comp. Appeals Bd.* (2017) 12 Cal.App.5th 1031, 1038–1039 [219 Cal.Rptr.3d 630].)
- “[W]here an employee is required by the employment to work at both the employer’s premises and at home, he is in the course of employment while traveling between the employer’s premises and home.” (*Zhu, supra*, 12 Cal.App.5th at p. 1040.)

Secondary Sources

3 Witkin, Summary of California Law (11th ed. 2017) Agency and Employment, §§ 192–~~195~~193

~~Finley, California Summary Judgment and Related Termination Motions § 1:1 et seq. (The Rutter Group)~~

2 Levy et al., California Torts, Ch. 20, *Motor Vehicles*, § 20.42[3] (Matthew Bender)

2 California Employment Law, Ch. 30, *Employers’ Tort Liability to Third Parties for Conduct of Employees*, § 30.05 (Matthew Bender)

21 California Forms of Pleading and Practice, Ch. 248, *Employer’s Liability for Employee’s Torts*, §§ 248.11, 248.16 (Matthew Bender)

37 California Forms of Pleading and Practice, Ch. 427, *Principal and Agent*, § 427.22 (Matthew Bender)

10 California Points and Authorities, Ch. 100A, *Employer and Employee: Respondeat Superior*, § 100A.28 et seq. (Matthew Bender)

California Civil Practice: Torts § 3:10 (Thomson Reuters)

RULES COMMITTEE ACTION REQUEST FORM

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

Rules Committee Meeting Date: August 23, 2022

Title of proposal: Judicial Branch Education: Rules Review and Modernization

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

Amend Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491

Committee or other entity submitting the proposal:

The Center for Judicial Education and Research (CJER) Advisory Committee

Staff contact (name, phone and e-mail): Karene Alvarado, 415-865-7761, karene.alvarado@jud.ca.gov

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

Approved by Rules Committee date: N/A

Project description from annual agenda: The CJER Advisory Committee's annual agenda is approved by the Executive and Planning Committee. The Executive and Planning Committee approved this project as part of the CJER Advisory Committee's 2022 annual agenda:

Item 2: Revise and Modernize Education-Related Rules of Court. Project Summary: Consider general and specific revisions to the education requirements and expectations within the California Rules of Court to ensure uniformity of language and adaptability to emerging technology while increasing courts' discretion in meeting the educational needs of judicial officers and court personnel.

Status/Timeline: Ongoing. Projected completion date of December 31, 2022.

If requesting July 1 or out of cycle, explain:

N/A

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

Information for JC Staff regarding form translations:

- *List any amended forms in this proposal that have already been translated:* N/A
- *List any new forms that require translation by statute or that you will request to be translated:* N/A



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-128

For business meeting on: September 20, 2022

Title

Judicial Branch Education: Rules Review
and Modernization

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 2.812,
2.813, 2.815, 5.340, 10.452, 10.461–10.464,
10.468, 10.469, 10.471–10.474, 10.478,
10.479, 10.481, and 10.491

Effective Date

January 1, 2023

Date of Report

August 10, 2022

Recommended by

Center for Judicial Education and Research
Advisory Committee
Hon. Kimberly A. Gaab, Chair

Contact

Karene Alvarado, 415-865-7761
karene.alvarado@jud.ca.gov

Executive Summary

The Center for Judicial Education and Research Advisory Committee recommends amending 19 rules of court governing judicial branch education. The amendments are required to recognize new education delivery methods, adopt current adult education terminology, provide court staff and judicial officers a greater degree of authority and flexibility in meeting their educational needs, resolve requirement disparities between similar groups, adopt gender-neutral language, and clarify and simplify existing language.

Recommendation

The Center for Judicial Education and Research Advisory Committee recommends that the Judicial Council, effective January 1, 2023, amend California Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491 related to judicial branch education to generally provide judicial officers and court staff with greater clarity and flexibility in complying with the rules.

The proposed amended rules are attached at pages 10–48.

Relevant Previous Council Action

The Judicial Council adopted a comprehensive set of rules on judicial branch education in two stages in 2006 and 2007. In 2011, the Judicial Council directed the Governing Committee of the Center for Judicial Education and Research (CJER), the predecessor to the CJER Advisory Committee, to conduct a complete review of the education rules. This review resulted in the CJER Governing Committee proposing a slate of rule amendments to simplify rule language, increase flexibility in rule compliance, and correct minor typographical errors and omissions. The Judicial Council adopted the proposed amendments effective January 1, 2012. Since 2012, other education rules have been amended individually as the need arose. However, the temporary cessation of in-person programming due to the COVID-19 pandemic and other changes in education delivery prompted this second comprehensive review of the education requirements.

Analysis/Rationale

The proposal would amend many of the rules of court related to judicial branch education, generally providing greater clarity and flexibility to judicial officers and court staff. This is in keeping with the overarching goal of the branch to maintain a highly qualified and educated workforce to ensure consistent access to justice.

The amendments fall into five broad categories with specific analysis and rationale below.

Recognize new and developing education delivery methods and priorities and adopt current adult education terminology

The current language in the rules limited the ability of the judicial branch to comply with the education requirements during the COVID-19 pandemic. The following proposed amendments are intended to replace outdated terminology and delivery methods with new language on current terminology and delivery methods while acknowledging the increased effectiveness of and greater access provided by remote education.

- Amend rules 2.812(c)(1), 2.813 (Advisory Committee Comment), 10.461(c)(2)(B), 10.462(d)(3), 10.468(b)(4) and (c)(7), 10.471(b)(2)(B), 10.472(c)(5), 10.473(c)(3)(B), 10.474(c)(5), 10.478(b)–(g), and 10.491(c)(5) to update the language on acceptable delivery methods for hours-based education requirements. Current language in these rules generally requires specific education to be obtained by participation in “traditional” (live, face-to-face) or “in-person” education, distance education such as broadcasts, videoconferences, and online coursework, and/or self-directed study. The Judicial Council adopted rule 10.493, effective January 1, 2021, to allow any “instructor-led” education, whether in-person or remote, to satisfy the requirements for “traditional” or “in-person” education. The CJER Advisory Committee proposes amending language in these rules to note that participation in education by an approved provider under rule 10.481, including education that is instructor-led (live remote or in-person), asynchronous (such as videos and eLearning), and/or self-directed study, counts toward

hours-based education requirements and expectations within the rules of court. This proposed phrasing reflects current adult education terminology and is broad enough to incorporate future delivery methods as they become available and validated as educationally sound.

- Amend rules 10.469(e)(1) and 10.479(c) to include recommendations that fairness and access education for judicial officers and court staff should include consideration of court users with limited economic means and without access to stable housing. These proposals are consistent with the recommendation included in the *Report to the Chief Justice: Work Group on Homelessness* (noting that “education on topics relevant to homelessness can reduce misconceptions and biases involving court users who lack stable housing and can lead to a more empathetic approach in serving these court users, ultimately resulting in a more accessible, effective, equitable, and compassionate justice system”).¹

Provide judicial officers and court staff a greater degree of authority and flexibility in meeting their education requirements

As the courts continue to respond to the lingering impact the COVID-19 pandemic continues to have on court operations, the CJER Advisory Committee recognized a greater need for court autonomy and flexibility in responding efficiently to each court’s unique situation. The following proposed amendments are intended to provide judicial officers and the courts a greater degree of autonomy to address current circumstances and future challenges.

- Amend rules 10.461(d)(1), 10.462(e)(1), 10.472(d)(1), 10.473(d)(1), and 10.491(b)(3) to increase local court authority to extend deadlines for content-based education requirements. Under the existing rules, the local courts may only extend the deadlines for completion for hours-based requirements. This amendment permits the local courts to deal with education requirements, both content-based and hours-based. Extensions granted under this authority are capped at one year.
- Amend rule 10.462(c)(2) to remove the requirement that supervising judges participate in a “calendar management overview” course within one year of assuming the role of supervising judge. Calendar management practices vary widely from court to court, making a statewide course of limited utility for supervising judges. Education on this topic is best delivered on the local court level.
- Amend rule 10.468(b)(3) to expand the number of education providers probate judicial officers may utilize. The current rule requires probate judicial officers to receive education from CJER, the California Judges Association, or the local court. The proposed amendment would allow probate judicial officers the same access to approved providers

¹ *Report to the Chief Justice: Work Group on Homelessness* (Nov. 2021), recommendation 4.1, p. 40, www.courts.ca.gov/documents/hwg_work-group-report.pdf.

that is accorded to judges in other assignments. It would also provide them with enhanced flexibility in meeting their education requirements.

- Amend rule 10.472(c)(5) and 10.474(c)(5) to permit preapproved self-directed study as an option for appellate and trial court staff to complete their hours-based continuing education requirements. The proposal expands local control and the authority of court leaders to develop educational programs tailored to the unique needs of the individual employee. Permitting preapproved self-directed study provides an additional method for court leadership and staff to meet their educational needs.
- Amend rule 10.472(c)(7) and (d)(1) to note that the authority to determine whether an appellate court employee must participate in specific education or to grant an extension of time to complete education requirements rests with the administrative presiding justice or the clerk/executive officer. This proposed amendment reflects how the appellate courts currently operate and does not prohibit administrative presiding justices or clerk/executive officers from delegating this authority to managers and supervisors.
- Amend rule 10.481(b)(1)(B) to eliminate the requirement that education from entities not on the approved provider list be at least one hour in length to be approved for educational credit. This amendment recognizes that education can be obtained in smaller increments, such as webinars and podcasts, offered by providers not expressly listed on the approved provider list under rule 10.481(a).

Resolve education disparities between the appellate and trial courts and between judicial officers and court staff in certain assignments and positions

In undertaking a comprehensive review of the education rules, the CJER Advisory Committee noted that the education requirements had diverged over time for judicial officers in different assignments and for court staff in different positions. Standards also varied between the appellate and trial courts. The following proposed amendments seek to address this divergence by eliminating certain exclusions and disproportionalities in the education rules while clarifying some requirements and preserving standards.

- Amend rules 5.340(1), 10.462(c)(4), 10.463(a)(1), 10.472(b)(1) and (2), 10.474(b)(1) and (2), and 10.491(b)(1) to apply a consistent one-year deadline to complete required orientations. Under the existing requirements, the deadlines to complete orientations vary from six months to one year depending on the assignment or position of the individual. Applying a consistent one-year deadline to orientation courses simplifies compliance and eliminates inequitable disparities between judicial officers who sit in certain assignments or hear specific cases and between appellate and trial court staff. However, the requirement that new judges and subordinate judicial officers attend CJER's new judge orientation program within six months of taking their oath of office under rule 10.462(c)(1)(A) will remain unchanged. The proposed amendment also does not impact the timing of the Judicial Council's employment orientations.

- Amend rules 10.461(c)(1)(A) and 10.473(c)(2) to insert the phrase “the period provided for” before the word “completion” in relation to content-based orientation courses. Under the existing rules, some individuals have a specific period for completing content-based courses before entering hours-based requirements. Others must actually complete the content-based course before entering the applicable hours-based education cycle. This proposed amendment creates a consistent standard for everyone and a specific, ascertainable date by which orientations and new employee programs must be completed, based on an individual’s oath date or first day of employment. It eliminates the possibility of individuals deferring their hours-based education requirements by not completing their content-based orientation requirements.
- Amend rule 10.463 to extend family law education requirements to any judicial officer who regularly hears family law matters. The rule currently applies only to those whose formal primary assignment is in a family law department or those who are the “sole” judicial officers at their court who hear family law matters. This proposed amendment extends the requirements of this rule to those who regularly hear family law matters but whose primary assignments may be in another area of the law.
- Amend rule 10.468(b)(4) to eliminate individual reporting cycles for judges sitting in a probate assignment. The current rule creates an individual reporting cycle for probate judges based on either the calendar year following the completion of content-based education or the date their probate assignments begin. This individual cycle does not run concurrently with the general three-year education cycle under rule 10.462(d). The proposed amendment would have these cycles run concurrently for probate judges. This proposal does not alter the amount or substance of education judicial officers in probate would need to complete.
- Amend rules 10.468(b) and (c) and 10.478(b)–(g) to resolve a requirement disparity between judicial officers in a probate assignment and specific probate court staff with their counterparts in other departments. The existing requirements for judicial officers and court staff in a probate department are objectively more stringent than the general rules. These include enhanced content-based requirements (i.e., a greater number of hours required for specific subjects), more frequent education cycles (e.g., annual requirements for court staff), and expressly exclude self-directed study as an option for meeting the education requirements. While still preserving enhanced education requirements for judges and court staff in probate assignments and positions, this proposal seeks to bring the probate rules more in alignment with the other education requirements by reducing the number of hours required each cycle for certain assignments and positions, extending the reporting cycle for court staff from annual to every other year, and permitting self-study.
- Amend rules 10.471(b)(2)(B) and 10.472(c)(5) to eliminate the requirement that half of the hours-based education requirements of clerk/executive officers and appellate staff be completed through traditional (live, face-to-face) or instructor-led education. This

restriction on delivery method only applies to the appellate courts. By comparison, the trial court presiding judges and court executive officers currently have discretion to determine the number of hours of instructor-led education that is required for court leadership and employees. Deleting this requirement eliminates this disparity while simultaneously providing the appellate courts greater flexibility in meeting their education requirements.

- Amend rules 10.472(c)(3) and 10.474(c)(3) to permit the appellate and trial court employee orientation to count toward the hours-based education requirements for these employees. Currently only Judicial Council employees are permitted to have their new employee orientation count as credit for their hours-based education. Permitting appellate and trial court employees to have their orientations count toward their hours-based requirements simplifies compliance with the rules of court and removes an otherwise inequitable disparity.
- Amend rules 10.472(c)(3) and 10.474(c)(3) to eliminate the quarter system for determining when an appellate or trial court employee enters hours-based education requirements. This quarter system has proven difficult to administer. The proposal would simplify and replace this system by using an employee’s first date of employment as the standard entry point into the hours-based education cycle. Employees entering mid-cycle would have their number of hours prorated based on how many months are left in the cycle.

Adopt gender-neutral language

As part of an ongoing Judicial Council effort, the CJER Advisory Committee proposes amending rules 10.452, 10.461, 10.462, 10.464, 10.469, 10.471–10.474, 10.478, 10.479, and 10.491 to eliminate gender-specific language and incorporate plural nouns and gender-neutral pronouns and possessive pronouns where appropriate.

Clarify and simplify existing language in the rules and make other grammatical and typographical corrections

In addition to the proposal listed above, the CJER Advisory Committee recommends the following clarifications, nonsubstantive modifications, and corrections:

- Amend rule 2.813(c) to incorporate by reference and clarify that the provisions of Code of Civil Procedure section 110.240(b) apply to temporary judges who hear small claims matters.
- Amend rules 10.452, 10.461–10.464, 10.468, 10.469, and 10.471–10.474 to replace the terms “period” and “education period” with “education cycle.” Hours-based education requirements and expectations for judicial officers, court staff, and Judicial Council employees operate under consecutive two-year or three-year education cycles. The phrase “education cycle” is more commonly used within the branch and reflects the ongoing nature of the education obligations.

- Amend rules 10.461(c)(2)(C), 10.462(d)(4), 10.471(b)(2)(B), 10.472(c)(6), 10.473(c)(3)(C), and 10.474(c)(6) to clarify previous amendments on faculty service qualifying for hours-based continuing education credit. Under the existing rules, although the faculty service must be on a legal or judicial topic for a legal or judicial audience, the cap on an individual’s use of faculty service for hours-based education requirements was eliminated in 2012. These amendments clarify that change.
- Amend rules 10.462(c)(1)–(3) and the Advisory Committee Comment, 10.473(b)(1), and 10.491(b)(1) and (2) to remove proper nouns of specific courses or referenced documents. Currently the rules refer to specific names of courses and documents whose titles have changed since these rules were adopted. By removing their proper nouns from the rules, the programs and documents referenced in this manner will be permitted to change over time yet still be accurately referenced in the rules. The sole exception to this proposed amendment is that the B. E. Witkin Judicial College will retain its title within rule 10.462(c)(1)(C).
- Amend rules 10.463(b) and 10.464(a) to clarify that a “periodic update” on new developments in family law and procedure for judges who hear cases involving domestic violence must occur at least once every three-year education cycle. Currently, the phrase “periodic update” is undefined.
- Amend rules 10.468(a) and 10.478(a) to remove definitions of generally applicable terms. The terms that the CJER Advisory Committee proposes deleting are equally applicable to the other education rules, but they are only included in the specific probate assignment rules. Deleting these terms will make the probate rules consistent with the other education rules.
- Amend rules 2.812, 2.815, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491 to simplify sentence structure, reorganize provisions, remove redundant clauses, and correct minor typographical errors.

In sum, the proposed amendments are intended to ensure that the educational needs of the judicial branch continue to be met by providing greater flexibility and clarity to existing requirements and by updating provisions to reflect new and emerging technologies. This is in keeping with the overarching goal of the branch to maintain a highly qualified and educated workforce to ensure access to justice.

Policy implications

Goal V of *The Strategic Plan for California’s Judicial Branch* states:

High-quality education and professional development will be provided to enhance the ability of all individuals serving in the judicial branch to achieve high standards of professionalism, ethics, and performance. Judicial branch personnel

will have access to the resources and training necessary to meet the diverse needs of the public and to enhance trust and confidence in the courts.²

The plan elaborates that the branch must pursue “innovative ways and means to provide professional development, education, and training opportunities for all members of the branch” to maintain “professional excellence” that furthers “public trust and confidence in the judicial branch.”³ It also acknowledges that it is a best practice for the branch to “[i]ncrease access for judicial branch personnel to continuing education opportunities.”⁴ As a package, the proposal furthers these policy objectives by recognizing the validity of new and emerging education delivery methods to expand options and flexibility in meeting education requirements. The package also eliminates inequitable disparities between judicial officers and court staff based on assignment or agency, implements inclusive language, and clarifies existing requirements and expectations.

In discussing its proposal on whether to amend rules 10.468 and 10.478 to resolve a requirement disparity between judicial officers in a probate assignment and specific probate court staff with their counterparts in other departments, the CJER Advisory Committee considered whether reducing the number of hours required each cycle carried the potential to undermine public trust and confidence in the courts. The committee concluded, however, that maintaining lower, but still heightened, requirements for personnel in these assignments while broadening access to more education providers and delivery methods provided much needed flexibility to this group.

In total, the CJER Advisory Committee believes that these proposed amendments to the education rules best serve the strategic plan.

Comments

This proposal circulated for comment from April 1 through May 13, 2022, and the Judicial Council received four comments. As indicated in the attached comment chart at pages 49–53, the CJER Advisory Committee received no comments in opposition to any of the proposed amendments.

All commenters agreed with the proposal with slight modifications. Two commenters representing clerk/executive officers requested additional flexibility in rule 10.452(f)(5) as to who is authorized to approve reimbursement for out-of-state travel for educational events consistent with local court policies. One of these commenters also requested that the authority to grant extensions for appellate court staff to complete education requirements be centralized with the administrative presiding justice or the clerk/executive officer. The CJER Advisory Committee agrees with these modifications.

² *The Strategic Plan for California’s Judicial Branch* (undated), Branch Goals, www.courts.ca.gov/3045.htm.

³ *Id.* at p. 9, www.courts.ca.gov/documents/CAJudicialBranch_StrategicPlan.pdf.

⁴ *Id.* at p. 10.

One commenter requested that the rules be clarified to include credit for time spent by faculty in preparing to teach courses. The CJER Advisory Committee reviewed the rationale for removing credit for time faculty spent in preparing to teach contained in rule 10.462 prior to 2012. At that time, the CJER Governing Committee proposed removing the multiplier for class preparation time while significantly broadening the audience judicial officers could receive credit for teaching. Based on its review of the history behind rule 10.262, the CJER Advisory Committee declines to reinstate credit for faculty preparation time.

Lastly, two commenters noted that including definitions of the terms “asynchronous” and “eLearning” used in the proposed amendments would clarify the different education delivery methods that may be used to satisfy the education requirements. The CJER Advisory Committee agrees. The committee no longer seeks to repeal rule 10.493, Instructor-led training. Instead, it will propose amending the rule with clarifying language in a separate proposal that will, if approved, be circulated for public comment.

Alternatives considered

The CJER Advisory Committee considered and rejected a proposal that would have eliminated the requirement that judicial officers fulfill at least half of their hours-based expectations and requirements through participation in instructor-led (live remote or in-person) education. The committee concluded that it is in the interest of the public and the branch that judicial officers seek out opportunities to communicate and exchange ideas with other judges and attorneys on legal developments and updates and be exposed to opinions and perspectives from their colleagues in other courts.

The committee also considered proposing an amendment to rule 10.468(c)(2) that would have reduced the number of hours from 9 hours to 6 that are required every three years from probate judges in courts with four or fewer authorized judges. While the committee is proposing that the hours-based requirement for probate judges from courts with five or more authorized judges be reduced from 18 to 12 hours every three years, the committee concluded that 9 hours every three years remains a reasonable amount of education for probate judges from smaller courts.

Fiscal and Operational Impacts

The committee does not anticipate that the proposal will have significant fiscal or operational impacts on the judicial branch. The proposal may result in minor implementation costs as the appellate and trial courts train their staff on the proposed amendments and adapt their education tracking and reporting systems.

Attachments and Links

1. Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491, at pages 10–48
2. Chart of comments, at pages 49–53

Rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491 of the California Rules of Court are amended, effective January 1, 2023, to read:

1 **Rule 2.812. Requirements for court appointment of an attorney to serve as a**
2 **temporary judge**

3
4 **(a)–(b) *****

5
6 **(c) Education and training requirements**

7
8 The presiding judge may appoint an attorney to serve as a temporary judge only if
9 the following minimum training requirements are satisfied:

10
11 (1) *Mandatory training on bench conduct and demeanor*

12
13 Within three years before appointment, the attorney must have attended and
14 successfully completed, ~~within the previous three years,~~ a course of ~~at least 3~~
15 ~~hours' duration~~ on the subjects identified in rule 2.813(a) approved by the
16 court in which the attorney will serve. This course must be of at least three
17 hours' duration, taken in person instructor-led (live remote or in-person), and
18 be taught by a qualified judicial officer approved by the court.

19
20 (2) *Mandatory training in ethics*

21
22 Within three years before appointment, the attorney must have attended and
23 successfully completed, ~~within the previous three years,~~ a course of ~~at least 3~~
24 ~~hours' duration~~ on the subjects identified in rule 2.813(b) approved by the
25 court in which the attorney will serve. This course must be of at least three
26 hours' duration and may be taken by any means approved by the court,
27 including in person, by broadcast with participation, or online.

28
29 (3) *Substantive training*

30
31 Within three years before appointment, the attorney must have attended and
32 successfully completed, ~~within the previous three years,~~ a course on the
33 substantive law in each subject area in which the attorney will serve as a
34 temporary judge. These courses may be taken by any means approved by the
35 court, ~~including in person, by broadcast with participation, or online.~~ The
36 substantive courses have the following minimum requirements:

37
38 (A) *Small claims*

39
40 Within three years before appointment, an attorney serving as a
41 temporary judge in small claims cases must have attended and

1 successfully completed, ~~within the previous three years,~~ a course of at
2 ~~least 3 hours' duration~~ on the subjects identified in rule 2.813(c). The
3 course must be at least three hours' duration and approved by the court
4 in which the attorney will serve.

5
6 (B) *Traffic*

7
8 Within three years before appointment, an attorney serving as a
9 temporary judge in traffic cases must have attended and completed;
10 ~~within the previous three years,~~ a course of ~~at least 3 hours' duration~~ on
11 the subjects identified in rule 2.813(d). The course must be at least
12 three hours' duration and approved by the court in which the attorney
13 will serve.

14
15 (C) *Other subject areas*

16
17 If the court assigns attorneys to serve as temporary judges in other
18 substantive areas such as civil law, family law, juvenile law, unlawful
19 detainers, or case management, the court must determine what
20 additional training is required ~~and what additional courses are required~~
21 before an attorney may serve as a temporary judge in each of those
22 subject areas. The training required in each area must be of at least ~~3~~
23 three hours' duration. The court may also require that an attorney
24 possess additional years of practical experience in each substantive area
25 before being assigned to serve as a temporary judge in that subject area.

26
27 (D)–(E) ***

28
29 (d) **Requirements for retired judicial officers**

30
31 Commencing five years after the retired judicial officer last served in a judicial
32 position either as a full-time judicial officer or as an assigned judge, a retired
33 judicial officer serving as a temporary judge must satisfy all the education and
34 training requirements of this rule. However, a retired judicial officer serving as a
35 temporary judge in a small claims case must satisfy all the requirements of Code of
36 Civil Procedure section 116.240(b) and the rules in this chapter before serving in
37 the case.

38
39 (e)–(g) ***

1
2 (9) Other subjects deemed appropriate by the presiding judge based on local
3 needs and conditions.
4

5 In addition, an attorney serving as a temporary judge in small claims cases must be
6 familiar with the publications identified in Code of Civil Procedure section
7 116.930.
8

9 (d) ***
10

11 **Advisory Committee Comment**

12
13 The purpose of this rule is to ensure that all court-appointed temporary judges have proper
14 training in bench conduct and demeanor, ethics, and each substantive area in which they
15 adjudicate cases. Each court is responsible for approving the training and instructional materials
16 for the temporary judges appointed by that court. The training in bench conduct and demeanor
17 must be ~~in person~~ instructor-led (live remote or in-person), but in other areas each court may
18 determine the approved method or methods by which the training is provided. ~~The methods may~~
19 ~~include in person courses, broadcasts with participation, and online courses.~~ Courts may offer
20 Minimum Continuing Legal Education (MCLE) credit for courses that they provide and may
21 approve MCLE courses provided by others as satisfying the substantive training requirements
22 under this rule. Courts may work together with other courts, or may cooperate on a regional basis,
23 to develop and provide training programs for court-appointed temporary judges under this rule.
24
25

26 **Rule 2.815. Continuing education**

27 28 (a) **Continuing education required**

29
30 Every three years, each attorney appointed as a temporary judge must attend and
31 successfully complete every three years a course on bench conduct and demeanor,
32 an ethics course, and a course in each substantive area in which the attorney will
33 serve as a temporary judge. The courses must cover the same subjects and be of the
34 same duration as the courses prescribed in rule 2.812(c). These courses must be
35 approved by the court that appoints the attorney in which the attorney will serve.
36

37 (b) ***
38
39

40 **Rule 5.340. Judicial education for child support commissioners**

41
42 Every commissioner whose principal judicial assignment is to hear child support matters
43 must attend the following judicial education programs:

1
2 (1) *Basic child support law education*

3
4 Within ~~six months~~ one year of beginning an assignment as a child support
5 commissioner, the judicial officer must attend a basic educational program on
6 California child support law and procedure designed primarily for judicial officers.
7 The training program must include instruction on both state and federal laws
8 concerning child support. A judicial officer who has completed the basic
9 educational program need not attend the basic educational program again.

10
11 (2)–(4) ***

12
13
14 **Rule 10.452. Minimum education requirements, expectations, and recommendations**

15
16 **(a) Purpose**

17
18 Justices, judges, and subordinate judicial officers are entrusted by the public with
19 the impartial and knowledgeable handling of proceedings that affect the freedom,
20 livelihood, and happiness of the people involved. Court personnel assist justices,
21 judges, and subordinate judicial officers in carrying out their responsibilities and
22 must provide accurate and timely services to the public. ~~Each Justice, judge, and~~
23 ~~subordinate judicial officers, and each court staff members~~ is are individually
24 responsible for maintaining and improving his or her their professional
25 competence. To assist them in enhancing their professional competence, the
26 judicial branch will develop and maintain a comprehensive and high-quality
27 education program, including minimum education requirements, expectations, and
28 recommendations, to provide educational opportunities for all justices, judges,
29 subordinate judicial officers, and court personnel.

30
31 **(b) Goals**

32
33 The minimum education requirements, expectations, and recommendations ~~set~~
34 ~~forth~~ stated in rules 10.461–10.479 are intended to achieve two complementary
35 goals:

- 36
37 (1) To ensure that ~~both individuals who are new to the bench or the court and~~
38 ~~those who are experienced on the bench or court but are beginning a new~~
39 ~~assignment or role~~ all justices, judges, subordinate judicial officers, and court
40 personnel obtain education on the tasks, skills, abilities, and knowledge
41 necessary to be successful in ~~the~~ their new court assignments and roles; and
42

1 (2) To establish broad continuing education parameters; based on ~~time~~ multiyear
2 education cycles; ~~for continuing education~~ for experienced individuals ~~who~~
3 ~~are experienced both on the bench or court and in their assignments or roles~~;
4 while preserving the ability of ~~the individual~~ these individuals, working with
5 ~~the individual who~~ persons oversees overseeing his or her their work, to
6 determine ~~the~~ appropriate education content and providers.
7

8 **(c) Relationship of minimum education requirements and expectations to**
9 **education recommendations**

10
11 The education requirements and expectations ~~set forth~~ stated in rules ~~10.461–10.462~~
12 10.461, 10.462, and 10.471–10.474 are minimums. Justices, judges, and
13 subordinate judicial officers should participate in more judicial education than is
14 required and expected, related to each individual’s responsibilities and ~~particular~~
15 ~~judicial assignment or assignments~~ and in accordance with the judicial education
16 recommendations ~~set forth~~ stated in rule 10.469. Additional education requirements
17 related to specific responsibilities are ~~set forth~~ stated in rule 10.463 (for those
18 hearing family law matters), rule 10.464 (for those hearing domestic violence
19 issues), and rule 10.468 (for those hearing probate proceedings).
20

21 **(d) Responsibilities of Chief Justice and administrative presiding justices**

22
23 The Chief Justice and ~~each~~ administrative presiding justices:

24
25 (1) Must grant sufficient leave to Supreme Court and Court of Appeal justices,
26 the clerk/executive officer, and the managing attorney to ~~enable them to~~
27 complete the minimum education requirements stated in rules 10.461, 10.471,
28 and 10.472, respectively;
29

30 (2) ***

31
32 (3) In addition to the educational leave required under (d)(1)–(2), should grant
33 leave to a justice, clerk/executive officer, or managing attorney to serve on
34 education committees and as a faculty member at education programs when
35 the individual’s services have been requested for ~~these purposes~~ judicial or
36 legal education by ~~Judicial Council staff, the California Judges Association,~~
37 ~~or the court. If a court’s calendar would not be adversely affected, the court~~
38 ~~should grant additional leave for a justice, the clerk/executive officer, or the~~
39 ~~managing attorney to serve on an educational committee or as a faculty~~
40 ~~member for judicial branch education;~~
41

1 (4) Should establish an education plan for ~~his or her~~ the court to facilitate the
2 involvement of justices, the clerk/executive officer, and the managing
3 attorney as both participants and faculty in education activities;

4
5 (5) ***

6
7 (6) Must retain the records and cumulative histories of participation provided by
8 justices. These records and cumulative histories are subject to periodic audit
9 by Judicial Council staff. The Chief Justice and the administrative presiding
10 justices ~~must report the data from the records and cumulative histories~~ their
11 courts' compliance with education requirements on an aggregate basis to the
12 Judicial Council, on a form provided by the Judicial Council, within six
13 months after the end of each three-year ~~period~~ education cycle.

14
15 **(e) Responsibilities of presiding judges**

16
17 ~~Each~~ Presiding judges:

18
19 (1) Must grant sufficient leave to ~~all~~ their judges and subordinate judicial officers
20 and to the court executive officer to enable them to complete the minimum
21 education requirements and expectations stated in rules 10.462 and 10.473,
22 respectively;

23
24 (2) To the extent compatible with the efficient administration of justice, must
25 grant to ~~all~~ their judges and subordinate judicial officers and to the court
26 executive officer sufficient leave to participate in education programs
27 consistent with the education recommendations stated in rules 10.469 and
28 10.479. After a judge or subordinate judicial officer has completed the new
29 judge education required under rule 10.462, the presiding judge should grant
30 each judge and subordinate judicial officer at least eight court days per
31 calendar year to participate in continuing education relating to the judge's or
32 subordinate judicial officer's responsibilities or current or future court
33 assignment;

34
35 (3) In addition to the educational leave required or authorized under rule 10.603
36 or (e)(1)–(2), should grant leave to a judge or subordinate judicial officer or
37 the executive officer to serve on education committees and as a faculty
38 member at education programs when the judicial officer's or executive
39 officer's services have been requested for ~~these purposes~~ judicial or legal
40 education by Judicial Council staff, the California Judges Association, or the
41 court. ~~If a court's calendar would not be adversely affected, the presiding~~
42 ~~judge should grant additional leave for a judge or subordinate judicial officer~~

1 ~~or executive officer to serve on an educational committee or as a faculty~~
2 ~~member for judicial branch education;~~

3
4 (4) Should establish an education plan for ~~his or her~~ the court to facilitate the
5 involvement of judges, subordinate judicial officers, and the executive officer
6 as both participants and faculty in education activities and should consult
7 with each judge, each subordinate judicial officer, and the executive officer
8 regarding their education needs and requirements related to their current and
9 future assignments;

10
11 (5) Should use ~~his or her~~ their assignment powers to enable all judges and
12 subordinate judicial officers, ~~particularly those assigned to specific calendar~~
13 ~~courts~~, to participate in educational activities;

14
15 (6) ***

16
17 (7) Must retain the records and cumulative histories of participation provided by
18 judges. These records and cumulative histories are subject to periodic audit
19 by Judicial Council staff. ~~The Presiding judges~~ must report ~~the data from the~~
20 ~~records and cumulative histories~~ their courts' compliance with education
21 requirements on an aggregate basis to the Judicial Council, on a form
22 provided by the Judicial Council, within six months after the end of each
23 three-year ~~period~~ education cycle.

24
25 **(f) Responsibilities of Supreme Court and Court of Appeal justices,**
26 **clerk/executive clerk/executive officers, managing attorneys, and supervisors**

27
28 ~~Each court's~~ Justices, clerk/executive officers, managing attorneys, and
29 supervisors:

30
31 (1)–(2) ***

32
33 (3) Should allow and encourage court personnel, in addition to participating as
34 students in educational activities, to serve on court personnel education
35 committees and as faculty at court personnel education programs when an
36 employee's services have been requested for these purposes ~~by Judicial~~
37 ~~Council staff or the court~~;

38
39 (4) Should establish an education plan for their court to facilitate the involvement
40 of court personnel as both participants and faculty in educational activities,
41 and should consult with each court staff member regarding ~~his or her~~ their
42 education needs and requirements and professional development; and
43

1 (5) Must ensure that ~~supervisors and other~~ court personnel are reimbursed by
2 their court in accordance with the travel policies issued by the Judicial
3 Council for travel expenses incurred in attending in-state education programs
4 as a participant, except to the extent that: (i) certain expenses are covered by
5 the Judicial Council; or (ii) the education provider or sponsor of the program
6 pays the expenses. Provisions for these expenses must be part of every
7 court's budget. ~~The clerk/executive officer or the managing attorney may~~
8 ~~approve~~ Reimbursement of travel expenses incurred by supervisors and other
9 court personnel in attending out-of-state education programs as a participant
10 may be approved by designated court administrators, as defined in local court
11 policies.
12

13 **(g) Responsibilities of trial court executive officers, managers, and supervisors**
14

15 ~~Each~~ Trial court's executive officers, managers, and supervisors:
16

17 (1)–(2) ***
18

19 (3) Should allow and encourage court personnel, in addition to participating as
20 students in education activities, to serve on court personnel education
21 committees and as faculty at court personnel education programs when an
22 employee's services have been requested for these purposes ~~by Judicial~~
23 ~~Council staff or the court;~~
24

25 (4) Should establish an education plan for their court to facilitate the involvement
26 of court personnel as both participants and faculty in educational activities,
27 and should consult with each court staff member regarding ~~his or her~~ their
28 education needs and requirements and professional development; and
29

30 (5) Must ensure that ~~managers, supervisors, and other~~ court personnel are
31 reimbursed by their court in accordance with the *Trial Court Financial*
32 *Policies and Procedures Manual* for travel expenses incurred in attending in-
33 state education programs as a participant, except to the extent that: (i) certain
34 expenses are covered by the Judicial Council; or (ii) the education provider or
35 sponsor of the program pays the expenses. Provisions for these expenses
36 must be part of every court's budget. The court executive officer may
37 approve reimbursement of travel expenses incurred by ~~managers, supervisors,~~
38 ~~and other~~ court personnel in attending out-of-state education programs as a
39 participant.
40
41

1 **Rule 10.461. Minimum education requirements for Supreme Court and Court of**
2 **Appeal justices**

3
4 **(a)–(b) *****

5
6 **(c) Hours-based continuing education**

7
8 (1) Each justice must complete 30 hours of continuing judicial education every
9 three years, beginning on the dates outlined:

10
11 (A) A new Supreme Court justice enters the three-year continuing
12 education ~~period~~ cycle on January 1 of the year following confirmation
13 of appointment, and a new Court of Appeal justice enters the three-year
14 continuing education ~~period~~ cycle on January 1 of the year following
15 the period provided for completion of the required new justice
16 education orientation program; continuing education requirements are
17 prorated based on the number of years remaining in the three-year
18 ~~period~~ education cycle.

19
20 (B) For all other justices, the first continuing education ~~period~~ cycle begins
21 January 1, 2008.

22
23 (C) The first continuing education ~~period~~ cycle for Supreme Court and
24 Court of Appeal justices is for two years from January 1, 2008, through
25 December 31, 2009, rather than three years. The continuing education
26 requirements and limitations in (c) are consequently prorated for this
27 two-year ~~period~~ education cycle. The first three-year ~~period~~ education
28 cycle then begins January 1, 2010.

29
30 (2) The following education applies toward the required 30 hours of continuing
31 judicial education:

32
33 (A) Any education offered by an approved provider (~~see under rule~~
34 ~~10.481(a)) and any other education, including education taken to satisfy~~
35 ~~a statutory or other education requirement~~, approved by the Chief
36 Justice or the administrative presiding justice as meeting the criteria
37 listed in rule 10.481(b).

38
39 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
40 ~~distance education such as broadcasts, videoconferences, and online~~
41 ~~coursework; self-directed study; and faculty service~~ education by an
42 approved provider under rule 10.481, including education that is
43 instructor-led (live remote or in-person), asynchronous (such as videos

1 and e-learning), and self-directed study, counts toward the continuing
2 education requirement on an hour-for-hour basis. ~~Each~~ Justices must
3 complete at least half of ~~his or her~~ their continuing education hours
4 requirement as a participant in ~~traditional (live, face-to-face)~~ instructor-
5 led (live remote or in-person) education. ~~The~~ Justices may complete the
6 balance of ~~his or her~~ their education hours requirement through any
7 other means with no limitation on any particular type of education.
8

9 (C) A justice who serves as faculty by teaching legal or judicial education
10 to a legal or judicial audience may apply faculty service as continuing
11 education hours as faculty service. There is no restriction on the
12 number or percentage of hours that a justice may claim as faculty
13 service. Credit for faculty service counts toward the continuing
14 education requirement on an hour-for-hour basis in the same manner as
15 all other types of education—~~on an hour-for-hour basis~~.
16

17 **(d) Extension of time**

- 18
- 19 (1) Upon request and for good cause, the Chief Justice or the administrative
20 presiding justice may grant a justice a one-year extension of time to complete
21 the continuing education requirement in ~~(e)~~ this rule.
22
- 23 (2) If the Chief Justice or the administrative presiding justice grants a request for
24 an extension of time, ~~the justice, in consultation with~~ the Chief Justice or the
25 administrative presiding justice and the justice, should ~~also~~ pursue interim
26 means of obtaining relevant educational content.
27
- 28 (3) An extension of time to complete the hours-based continuing education
29 requirement does not affect what is required in the next three-year ~~period~~
30 education cycle.
31

32 **(e) Records and summaries of participation for justices**

33 ~~Each~~ Justices ~~is~~ are responsible for:

- 34
- 35
- 36 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
37 of participation for three years after each course or activity that is applied
38 toward the requirements, on a form provided by the Chief Justice for the
39 Supreme Court or by the administrative presiding justice for each appellate
40 district of the Court of Appeal. The form must include the information
41 regarding a justice's participation in education that is needed by the Chief
42 Justice or the administrative presiding justice to complete the aggregate form
43 required by rule 10.452(d)(6);

1
2 (2) At the end of each year, giving the Chief Justice or the administrative
3 presiding justice a copy of ~~his or her~~ their record of participation in education
4 for that year, on the form provided by the Chief Justice or the administrative
5 presiding justice; and
6

7 (3) At the end of each three-year ~~period~~ education cycle, giving the Chief Justice
8 or the administrative presiding justice a copy of ~~his or her~~ their record of
9 participation in education for that year and a cumulative history of
10 participation for that three-year ~~period~~ cycle, on the form provided by the
11 Chief Justice or the administrative presiding justice.
12

13 **Advisory Committee Comment**

14
15 The requirements formerly contained in subdivision (e)(2) of rule 970, which has been repealed,
16 are carried forward without change in rule 10.461(b).
17

18 Judicial Council staff have developed ~~both a manual format and an automated format of the~~
19 ~~individual justice's recording and reporting form referenced in an individual reporting form that~~
20 ~~justices may use in tracking their own participation in education as required by rule 10.461(e)(1).~~
21 ~~that gathers all the information needed by the Chief Justice or the administrative presiding justice~~
22 ~~to complete the aggregate report to the Judicial Council required under rule 10.452(d)(6). The~~
23 ~~form is available from the council's Center for Judicial Education and Research. The Chief~~
24 ~~Justice or and the administrative presiding justices may determine which form should be used in~~
25 ~~his or her their court and may provide the manual or automated format of council-developed form~~
26 ~~(available from the council's Center for Judicial Education and Research) or may provide another~~
27 ~~appropriate form that has been developed by his or her their court or by another court that gathers~~
28 ~~all the information needed by the Chief Justice or the administrative presiding justice to complete~~
29 ~~the aggregate report to the Judicial Council.~~
30
31

32 **Rule 10.462. Minimum education requirements and expectations for trial court** 33 **judges and subordinate judicial officers**

34
35 **(a)–(b) *****
36

37 **(c) Content-based requirement**

38
39 (1) ~~Each~~ New trial court judges and subordinate judicial officers must complete
40 the “new judge education” curriculum provided by the Judicial Council’s
41 Center for Judicial Education and Research (CJER) as follows:
42

1 (A) The new judge orientation program within six months of taking the
2 oath as a judge or subordinate judicial officer. For purposes of the new
3 judge orientation program, a judge or subordinate judicial officer is
4 considered “new” only once, and any judge or subordinate judicial
5 officer who has completed the new judge orientation program, as
6 required under this rule or under former rule 970, is not required to
7 complete the program again. A judge or subordinate judicial officer
8 who was appointed, elected, or hired before rule 970 was adopted on
9 January 1, 1996, is not required to complete the program;

10
11 (B) An orientation course in ~~his or her~~ their primary assignment (civil,
12 criminal, family, juvenile ~~delinquency~~ justice or dependency, probate,
13 or traffic) within one year of taking the oath as a judge or subordinate
14 judicial officer; and

15
16 (C) The B. E. Witkin Judicial College of California within two years of
17 taking the oath as a judge or subordinate judicial officer; ~~unless the~~ If a
18 new judge previously completed the Judicial College as a new
19 subordinate judicial officer, ~~in which case~~ then the presiding judge may
20 determine whether the new judge must complete it again.

21
22 (2) ~~Each~~ Judges beginning a supervising judge role ~~is~~ are expected to complete
23 the following education, CJER’s supervising judge orientation program
24 within one year of beginning the supervising judge role, preferably before
25 beginning the role. This expectation does not apply unless he or she is if they
26 are returning to a similar supervising judge role after less than two years in
27 another assignment or ~~is~~ are beginning a supervising judge role less than two
28 years after serving in the presiding judge role and completing ~~the Presiding~~
29 ~~Judges Orientation and Court Management Program~~ CJER’s presiding judge
30 and court executive officer orientation program.

31
32 (A) ~~For a judge who has administrative responsibility, CJER’s Supervising~~
33 ~~Judges Overview course within one year of beginning the supervising~~
34 ~~judge role, preferably before beginning the role;~~

35
36 (B) ~~For a judge who has calendar management responsibility, a calendar~~
37 ~~management overview course, provided either by the local court or by~~
38 ~~CJER, within one year of beginning the supervising judge role,~~
39 ~~preferably before beginning the role;~~

40
41 (C) ~~For a judge who has both administrative and calendar management~~
42 ~~responsibility, both overview courses within one year of beginning the~~
43 ~~role.~~

1
2 (3) ~~Each~~ Judges beginning a presiding judge role ~~is~~ are expected to complete
3 CJER's ~~Presiding Judges Orientation and Court Management Program~~
4 presiding judge and court executive officer orientation program within one
5 year of beginning the presiding judge role, preferably before beginning the
6 role. ~~This expectation does not apply unless he or she is~~ if they are returning
7 to a presiding judge role after two years or less in another role or assignment.
8

9 (4) ~~Each judge~~ Judges ~~is~~ are expected to and ~~each~~ subordinate judicial ~~officer~~
10 officers must, if beginning a new primary assignment (unless ~~he or she is~~
11 they are returning to an assignment after less than two years in another
12 assignment), complete a course on the new primary assignment, provided by
13 CJER, the California Judges Association (CJA), or the local court, within ~~six~~
14 months one year of beginning the new assignment. CJER is responsible for
15 identifying content for these courses and will share the identified content with
16 CJA and the local courts.
17

18 **(d) Hours-based continuing education**
19

20 (1) Each judge is expected to and each subordinate judicial officer must complete
21 30 hours of continuing judicial education every three years, beginning on the
22 dates outlined:
23

24 (A) A new judge or new subordinate judicial officer enters the three-year
25 continuing education ~~period~~ cycle on January 1 of the year following
26 the period provided for completion of the required new judge
27 education; continuing education expectations for judges and
28 requirements for subordinate judicial officers are prorated based on the
29 number of years remaining in the three-year ~~period~~ education cycle.
30

31 (B) For all other judges and subordinate judicial officers, the first three-
32 year ~~period~~ education cycle begins on January 1, 2007.
33

34 (2) The following education applies toward the expected or required 30 hours of
35 continuing judicial education:
36

37 (A) The content-based courses under (c)(2), (3), and (4) for a new
38 supervising judge, a new presiding judge, and a judge or subordinate
39 judicial officer beginning a new primary assignment (the "new judge
40 education" required under (c)(1) does not apply); and
41

42 (B) Any other education offered by an approved provider (~~see under~~ rule
43 10.481(a)) and any other education, ~~including education taken to satisfy~~

1 a statutory or other education requirement, approved by the presiding
2 judge as meeting the criteria listed in rule 10.481(b).

3
4 (3) Each hour of participation in ~~traditional (live, face-to-face) education;~~
5 ~~distance education, such as broadcasts, videoconferences, and online~~
6 ~~coursework; self-directed study; and faculty service~~ education by an
7 approved provider under rule 10.481, including education that is instructor-
8 led (live remote or in-person), asynchronous (such as videos and e-learning),
9 and self-directed study, counts toward the continuing education expectation
10 or requirement on an hour-for-hour basis. ~~Each~~ Judges and subordinate
11 judicial officers must complete at least half of ~~his or her~~ their continuing
12 education hours expectation or requirement as a participant in ~~traditional~~
13 ~~(live, face-to-face)~~ instructor-led (live remote or in-person) education. ~~The~~
14 Judges or subordinate judicial officers may complete the balance of ~~his or her~~
15 their judicial education hours expectation or requirement through any other
16 means with no limitation on any particular type of education.

17
18 (4) A judge or subordinate judicial officer who serves as faculty by teaching
19 legal or judicial education for a legal or judicial audience may apply faculty
20 service as continuing education hours as ~~faculty service.~~ There is no
21 restriction on the number or percentage of hours that a judge may claim as
22 faculty service. Credit for faculty service counts toward the continuing
23 education expectation or requirement on an hour-for-hour basis in the same
24 manner as all other types of education—~~on an hour-for-hour basis.~~

25
26 (5) ***

27
28 (e) **Extension of time**

29
30 (1) Upon request and for good cause, a presiding judge may grant a judge or
31 subordinate judicial officer an extension of time, up to one year, to complete
32 the education expectations or requirements in ~~(c)(2)-(4) and the continuing~~
33 ~~education expectation or requirement in (d) as follows:~~ this rule.

34
35 (A) ~~A time extension to complete the content-based expectations or~~
36 ~~requirements in (c)(2)-(4) is limited to the original time period provided~~
37 ~~for completion that is, one year, one year, or six months, respectively.~~

38
39 (B) ~~A time extension to complete the hours-based continuing education~~
40 ~~expectation or requirement in (d) is limited to one year.~~

41
42 (2) If the presiding judge grants a request for an extension of time, the presiding
43 judge and the judge or subordinate judicial officer, ~~in consultation with the~~

1
2 Judicial Council staff have developed ~~both a manual format and an automated format of the~~
3 ~~individual judge's recording and reporting form referenced in an individual reporting form that~~
4 ~~judges may use in tracking their own participation in education as required by rule 10.462(f), that~~
5 ~~gathers all the information needed by the presiding judge to complete the aggregate report to the~~
6 ~~Judicial Council required under rule 10.452(e)(7). The form is available from the council's Center~~
7 ~~for Judicial Education and Research. The Presiding judges may determine which form should be~~
8 ~~used in his or her their court and may provide the manual or automated format of the council-~~
9 ~~developed form (available from the Judicial Council's Center for Judicial Education and~~
10 ~~Research) or may provide another appropriate form that has been developed by his or her their~~
11 ~~court or by another court that gathers all the information needed by the presiding judge to~~
12 ~~complete the aggregate report to the Judicial Council.~~

13
14
15 **Rule 10.463. Education requirements for family court judges and subordinate**
16 **judicial officers**

17
18 Each judge or subordinate judicial officer whose primary assignment is to hear family
19 law matters, or who is ~~the sole judge hearing~~ regularly hears family law matters
20 regardless of their primary assignment, must complete the following education:

21
22 **(a) Basic family law education**

23
24 (1) Within ~~six months~~ one year of beginning a family law assignment, ~~or within~~
25 ~~one year of beginning a family law assignment in courts with five or fewer~~
26 ~~judges~~, the judge or subordinate judicial officer must complete a basic
27 educational program on California family law and procedure designed
28 primarily for judicial officers. A judge or subordinate judicial officer who has
29 completed the basic educational program need not complete the basic
30 educational program again.

31
32 (2) All other judicial officers who regularly hear family law matters, including
33 retired judges who sit on court assignment, must complete appropriate family
34 law educational ~~programs~~.

35
36 **(b) Continuing family law education**

37
38 The judge or subordinate judicial officer must complete a periodic update on new
39 developments in California family law and procedure at least once each education
40 cycle.

41
42 **(c) *****

1 **Advisory Committee Comment**

2
3 In determining what constitutes “appropriate” education, judges and subordinate judicial officers
4 should determine the number of hours of education on family law matters that is adequate for
5 their assignment, taking into account the size of the court, the nature of their assignment, the mix
6 of assignments, and other factors.

7
8
9 **Rule 10.464. Education requirements and expectations for judges and subordinate**
10 **judicial officers on domestic violence issues**

11
12 **(a) Judges and subordinate judicial officers hearing specified matters**

13
14 ~~Each~~ Judges or subordinate judicial officers who hears criminal, family, juvenile
15 delinquency justice, juvenile dependency, or probate matters must participate in
16 appropriate education on domestic violence issues as part of ~~his or her~~ their hours-
17 based continuing education requirements and expectations under rule 10.462(d)
18 each education cycle. Each judge or subordinate judicial officer whose primary
19 assignment is in one of these areas also must participate in a periodic update on
20 domestic violence as part of these requirements and expectations at least once each
21 education cycle.

22
23 **(b) Specified courses to include education on domestic violence issues**

24
25 The education provider must include education on domestic violence issues at the
26 Judicial College under rule 10.462(c)(1)(C) and in courses for primary assignments
27 in criminal, family, juvenile ~~delinquency justice~~, juvenile dependency, or probate
28 under rule 10.462(c)(1)(B) or (c)(4).

29
30 **Advisory Committee Comment**

31
32 In determining what constitutes “appropriate” education, ~~each judges or~~ and subordinate judicial
33 officers ~~s~~ should determine the number of hours of education on domestic violence that is adequate
34 for ~~his or her~~ their assignment, taking into account the size of the court, the nature of ~~his or her~~
35 their assignment, the mix of assignments, and other factors.

36
37
38 **Rule 10.468. Content-based and hours-based education for superior court judges**
39 **and subordinate judicial officers regularly assigned to hear probate**
40 **proceedings**

41
42 **(a) Definitions**

1 As used in this rule, the following terms have the meanings stated below:

2
3 ~~(1) “Judge“ means a judge of the superior court.~~

4
5 ~~(2) “Subordinate judicial officer” has the meaning specified in rule 10.701(a).~~

6
7 ~~(3) “Judicial officer” means a judge or a subordinate judicial officer.~~

8
9 ~~(4)(1) “Probate proceedings” are decedents’ estates, guardianships and~~
10 ~~conservatorships under division 4 of the Probate Code, trust proceedings~~
11 ~~under division 9 of the Probate Code, and other matters governed by~~
12 ~~provisions of that code and the rules in title 7 of the California Rules of~~
13 ~~Court.~~

14
15 ~~(5)(2) A judicial officer “regularly assigned to hear probate proceedings” is a~~
16 ~~judge or subordinate judicial officer who is:~~

17
18 (A) Assigned to a dedicated probate department where probate proceedings
19 are customarily heard on a full-time basis;

20
21 (B) Responsible for hearing most of the probate proceedings filed in a court
22 that does not have a dedicated probate department; or

23
24 (C) Responsible for hearing probate proceedings on a regular basis in a
25 department in a branch or other location remote from the main or
26 central courthouse, whether or not ~~he or she~~ the judicial officer also
27 hears other kinds of matters in that department and whether or not there
28 is a dedicated probate department in the main or central courthouse; or

29
30 (D) Designated by the presiding judge of a court with four or fewer
31 authorized judges.

32
33 ~~(6) “CJER” is the Judicial Council’s Center for Judicial Education and Research.~~

34
35 ~~(7) “CJA” is the California Judges Association.~~

36
37 **(b) Content-based requirements**

38
39 (1) ~~Each Judicial officers~~ beginning a regular assignment to hear probate
40 proceedings after the effective date of this rule- unless he or she is they are
41 returning to this assignment after less than two years in another assignment-,
42 must complete, ~~as soon as possible but not to exceed six months from the~~
43 ~~assignment’s commencement date,~~ 6 six hours of education on probate

1 guardianships and conservatorships, including court-supervised fiduciary
2 accounting, within one year of starting the assignment.

3
4 (2) The education required in (1) is ~~in addition to the New Judge Orientation~~
5 ~~program for new judicial officers and the B. E. Witkin Judicial College~~
6 ~~required under rule 10.462(e)(1)(A) and (C) and may be applied toward~~
7 ~~satisfaction of the 30 hours-based of continuing education expected of judges~~
8 ~~and required of subordinate judicial officers under rule 10.462(d).~~

9
10 (3) The education required in (1) must be provided by ~~CJER, CJA, or the judicial~~
11 ~~officer's court. CJER is responsible for identifying content for this education~~
12 ~~and will share the identified content with CJA and the courts~~ the Center for
13 Judicial Education and Research (CJER), an approved provider under rule
14 10.481(a), or education approved by the judicial officer's presiding judge as
15 meeting the education criteria specified in rule 10.481(b).

16
17 (4) The education required in (1) may be ~~by traditional (face to face) instructor-~~
18 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
19 ~~or self-directed study or distance learning means, such as broadcasts,~~
20 ~~videoconferences, or online coursework, but may not be by self-study.~~

21
22 **(c) Hours-based continuing education**

23
24 (1) In a court with five or more authorized judges, ~~each judicial officers~~ regularly
25 assigned to hear probate proceedings must complete ~~48~~ 12 hours of
26 continuing education every ~~three years~~ three-year education cycle, ~~with a~~
27 ~~minimum of six hours required in the first year, on probate guardianships and~~
28 ~~conservatorships, including court-supervised fiduciary accounting. The three-~~
29 ~~year period begins on January 1 of the year following the judicial officer's~~
30 ~~completion of the education required in (b)(1) or, if he or she is exempt from~~
31 ~~that education, on January 1 of the year the assignment commenced after the~~
32 ~~effective date of this rule.~~

33
34 (2) In a court with four or fewer authorized judges, ~~each judicial officers~~
35 regularly assigned to hear probate proceedings must complete nine hours of
36 continuing education every ~~three years~~ three-year education cycle, ~~with a~~
37 ~~minimum of three hours per year, on probate guardianships and~~
38 ~~conservatorships, including court-supervised fiduciary accounting. The three-~~
39 ~~year period begins on begins on January 1 of the year following the judicial~~
40 ~~officer's completion of the education required in (b)(1) or, if he or she is~~
41 ~~exempt from that education, on January 1 of the year the assignment~~
42 ~~commenced after the effective date of this rule.~~

1 (3) ~~The first continuing education period for judicial officers who were regularly~~
2 ~~assigned to hear probate proceedings before the effective date of this rule and~~
3 ~~who continue in the assignment after that date is two years, from January 1,~~
4 ~~2008, through December 31, 2009, rather than three years. The continuing~~
5 ~~education requirements in (1) are prorated for the first continuing education~~
6 ~~period under this paragraph. The first full three-year period of continuing~~
7 ~~education for judicial officers under this paragraph begins on January 1,~~
8 ~~2010. The three-year education cycle begins on and runs concurrently with~~
9 ~~the dates specified in rule 10.462(d)(1).~~

10
11 (4)–(5) ***

12
13 (6) ~~A~~ Judicial officers may fulfill the education requirement in (1) or (2) through
14 council-sponsored education, an approved provider (~~see under rule~~
15 10.481(a)), or education approved by the judicial officer’s presiding judge as
16 meeting the education criteria specified in rule 10.481(b).

17
18 (7) The education required in (1) or (2) may be ~~by traditional (face to face)~~
19 instructor-led (live remote or in-person), asynchronous (such as videos and e-
20 learning), or self-directed study broadcasts, videoconferences, or online
21 coursework, but may not be by self-study.

22
23 (d)–(e) ***

24
25
26 **Rule 10.469. Judicial Education recommendations for justices, judges, and**
27 **subordinate judicial officers**

28
29 (a) **Judicial education recommendations generally**

30
31 ~~Each~~ Justices, judges, and subordinate judicial officers, as part of ~~his or her~~ their
32 continuing judicial education, should regularly participate in educational activities
33 related to ~~his or her~~ their responsibilities and particular judicial assignment or
34 assignments. Minimum education requirements and expectations related to judicial
35 responsibilities and assignments are ~~set forth~~ stated in rules 10.461–10.462.
36 Additional education requirements related to specific responsibilities are ~~set forth~~
37 stated in rule 10.463 (for those hearing family law matters), rule 10.464 (for those
38 hearing domestic violence issues), and rule 10.468 (for those hearing probate
39 proceedings). The following recommendations illustrate for some specific
40 responsibilities and assignments how justices, judges, and subordinate judicial
41 officers should participate in more judicial education than is required and expected.
42

1 **(b) Jury trial assignment**

2
3 ~~Each~~ Judges or subordinate judicial officers assigned to jury trials should regularly
4 ~~use refer to the Judicial Council CJER educational materials or other~~ appropriate
5 educational materials and should regularly complete ~~CJER or other~~ appropriate
6 educational programs devoted to the conduct of jury voir dire and the treatment of
7 jurors.
8

9 **(c) Hearing of juvenile dependency matters**

10
11 ~~Each~~ Judges or subordinate judicial officers who hears juvenile dependency
12 matters, including retired judges who sit on court assignment, should regularly ~~use~~
13 refer to appropriate educational materials and should annually complete appropriate
14 education programs on juvenile dependency law and procedure, consistent with the
15 requirements in Welfare and Institutions Code section 304.7.
16

17 **(d) Capital case assignment**

18
19 ~~Each~~ Judges assigned to hear a capital case should complete, before the
20 commencement of the trial, a comprehensive education program on California law
21 and procedure relevant to capital cases provided by ~~CJER~~ the Center for Judicial
22 Education and Research (CJER). A judge with a subsequent assignment to a capital
23 case should complete a periodic update course within two years before the
24 commencement of the trial. The periodic update may be provided through actual
25 classroom instruction or through ~~video, audio, or~~ any other media as determined by
26 CJER.
27

28 **(e) Education on fairness and access, unconscious bias, and prevention of**
29 **harassment, discrimination, retaliation, and inappropriate workplace conduct**
30

31 (1) In order to achieve the objective of assisting judicial officers in preserving
32 the integrity and impartiality of the judicial system through the prevention of
33 bias, each justice, judge, and subordinate judicial officer should regularly
34 participate in education on fairness and access. The education should include
35 the following subjects: race and ethnicity; gender; sexual orientation; ~~and~~
36 persons with disabilities; persons with limited economic means; and persons
37 without stable housing.
38

39 (2) Each justice, judge, and subordinate judicial officer must participate in
40 education on unconscious bias, as well as the prevention of harassment,
41 discrimination, retaliation, and inappropriate workplace conduct. This
42 education must be taken at least once every three-year continuing education
43 period cycle as determined by rules 10.461(c)(1) and 10.462(d).

1
2
3 **Rule 10.471. Minimum education requirements for Supreme Court and Court of**
4 **Appeal clerks/~~executive~~ clerk/executive officers**

5
6 **(a) Applicability**

7
8 All ~~clerks/executive~~ clerk/executive officers of the California Supreme Court and
9 Courts of Appeal must complete these minimum education requirements. All
10 ~~clerks/executive~~ clerk/executive officers should participate in more education than
11 is required, related to each individual's responsibilities and in accordance with the
12 education recommendations set forth in rule 10.479.

13
14 **(b) Hours-based requirement**

- 15
16 (1) ~~Each~~ Clerk/executive officers must complete 30 hours of continuing
17 education every three years beginning on the following dates:
18
19 (A) For a new ~~clerk/executive~~ officers, the first three-year ~~period~~ cycle
20 begins on January 1 of the year following ~~his or her~~ their hire.
21
22 (B) For all other ~~clerks/executive~~ clerk/executive officers, the first three-
23 year ~~period~~ cycle begins on January 1, 2008.
24
25 (2) The following education applies toward the required 30 hours of continuing
26 education:
27
28 (A) Any education offered by an approved provider (~~see under rule~~
29 10.481(a)) and any other education, ~~including education taken to satisfy~~
30 ~~a statutory or other education requirement~~, approved by the Chief
31 Justice or the administrative presiding justice as meeting the criteria
32 listed in rule 10.481(b).
33
34 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
35 ~~distance education such as broadcasts, videoconferences, and online~~
36 ~~coursework; faculty service; education by an approved provider under~~
37 rule 10.481, including education that is instructor-led (live remote or
38 in-person), asynchronous (such as videos and e-learning), and self-
39 directed study, counts toward the continuing education requirement on
40 an hour-for-hour basis. ~~Each clerk/executive officer must complete at~~
41 ~~least half of his or her continuing education hours requirement as a~~
42 ~~participant in traditional (live, face-to-face) education. The~~
43 ~~clerk/executive officer may complete the balance of his or her~~

1 education hours requirement through any other means with no
2 ~~limitation on any particular type of education.~~ The Chief Justice or the
3 administrative presiding justice has discretion to determine the number
4 of hours, if any, of instructor-led (live remote or in-person) education
5 required to meet the continuing education requirement.
6

7 (C) A clerk/executive officer who serves as faculty by teaching legal or
8 judicial education to a legal or judicial audience may apply education
9 hours as faculty service. There is no restriction on the number or
10 percentage of hours that a clerk/executive officer may claim as faculty
11 service. Credit for faculty service counts toward the continuing
12 education requirement on an hour-for-hour basis in the same manner as
13 all other types of education—~~on an hour-for-hour basis.~~
14

15 **(c) Extension of time**

16
17 (1) Upon request and for good cause, the Chief Justice or the administrative
18 presiding justice may grant a one-year extension of time a clerk/executive
19 officer an extension of time, up to one year, to complete the education
20 requirements in (b).
21

22 (2) If the Chief Justice or the administrative presiding justice grants a request for
23 an extension of time, the Chief Justice or the administrative presiding justice
24 and the clerk/executive officer, in consultation with the Chief Justice or the
25 administrative presiding justice, must also pursue interim means of obtaining
26 relevant educational content.
27

28 (3) An extension of time to complete the hours-based requirement does not affect
29 the timing of the clerk/executive officer's next three-year period education
30 cycle.
31

32 **(d) Record of participation; statement of completion**

33 ~~Each~~ Clerk/executive officers ~~is~~ are responsible for:

34
35
36 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
37 of participation for three years after each course or activity that is applied
38 toward the requirements;
39

40 (2) At the end of each year, giving the Chief Justice or the administrative
41 presiding justice a copy of ~~his or her~~ their record of participation in education
42 for that year; and
43

- 1 (3) At the end of each three-year ~~period~~ education cycle, giving the Chief Justice
2 or the administrative presiding justice a signed statement of completion for
3 that three-year ~~period~~ education cycle.
4
5

6 **Rule 10.472. Minimum education requirements for Supreme Court and Court of**
7 **Appeal managing attorneys, supervisors, and other personnel**
8

9 (a) ***
10

11 (b) **Content-based requirements**
12

- 13 (1) Each new managing attorney or supervisor must complete orientation courses
14 within ~~six months~~ one year of becoming a managing attorney or supervisor,
15 unless the individual's supervisor determines that the new managing attorney
16 or supervisor has already completed these orientation courses or courses
17 covering equivalent content. The courses must include orientation about:
18

- 19 (A) The judicial branch of California;
20
21 (B) The local court; and
22
23 (C) Basic management and supervision.
24

- 25 (2) Each new court employee who is not a managing attorney or supervisor must
26 complete orientation courses within ~~six months~~ one year of becoming a court
27 employee, unless the employee's supervisor determines that the new court
28 employee has already completed these orientation courses or courses
29 covering equivalent content. The courses must include orientation about:
30

- 31 (A) The judicial branch of California;
32
33 (B) The local court;
34
35 (C) Basic employee issues, such as sexual harassment and safety; and
36
37 (D) The employee's specific job.
38

39 (3) ***
40

41 (c) **Hours-based requirements**
42

43 (1)–(2) ***

- 1
2 (3) The ~~first two-year period~~ education cycle for all managing attorneys,
3 supervisors, and other personnel begins on January 1, ~~2008~~ of each even-
4 numbered year. The orientation education required for new managing
5 attorneys, supervisors, and other personnel under (b) ~~does not apply~~ applies
6 toward the required hours of continuing education ~~because it must be~~
7 ~~completed before they enter the two-year period~~. Each New managing
8 attorneys, supervisors, or employees enters the two-year continuing education
9 period cycle on the first day of the quarter following his or her completion of
10 ~~the orientation education required under (b); the quarters begin on January 1,~~
11 April 1, July 1, and October 1. Each managing attorney, supervisor, or
12 ~~employee who enters the two-year continuing education period after it has~~
13 ~~begun their first day of employment and must complete a prorated number of~~
14 ~~continuing education hours for that two-year period~~ education cycle, based on
15 ~~the number of quarters remaining in it.~~
- 16
- 17 (4) Any education offered by an approved provider (~~see under rule 10.481(a)~~)
18 and any other education, ~~including education taken to satisfy a statutory,~~
19 ~~rules-based, or other education requirement,~~ that is approved by the
20 clerk/executive officer, the managing attorney, or the employee's supervisor
21 as meeting the criteria listed in rule 10.481(b) applies toward the orientation
22 education required under (b) and the continuing education required under
23 (c)(1) and (2).
- 24
- 25 (5) Each hour of participation in ~~traditional (live, face-to-face) education;~~
26 ~~distance education such as broadcasts, videoconferences, online coursework;~~
27 ~~and faculty service~~ education by an approved provider under rule 10.481,
28 including education that is instructor-led (live remote or in-person),
29 asynchronous (such as videos and e-learning), and self-directed study
30 approved in advance by the supervisor of the managing attorney, supervisor,
31 appellate judicial attorney, or other employee, counts toward the continuing
32 education requirement on an hour-for-hour basis. Each managing attorney,
33 supervisor, and other employee must complete at least half of his or her
34 continuing education hours requirement as a participant in traditional (live,
35 face-to-face) education. The managing attorney, supervisor, or other
36 employee may complete the balance of his or her education hours
37 requirement through any other means with no limitation on any particular
38 type of education. Self-directed study is encouraged for professional
39 development but does not apply toward the required hours. The
40 administrative presiding justice or the clerk/executive officer has discretion to
41 determine the number of hours, if any, of instructor-led (live remote or in-
42 person) education required to meet the continuing education requirement.
43

1 (6) A managing attorney, supervisor, appellate judicial attorney, or other
2 employee who serves as faculty by teaching legal or judicial education for a
3 legal or judicial audience may apply education hours for the faculty service.
4 There is no restriction on the number or percentage of hours that a managing
5 attorney, supervisor, appellate judicial attorney, or other employee may claim
6 as faculty service. Credit for faculty service counts toward the continuing
7 education requirement on an hour-for-hour basis in the same manner as all
8 other types of education—~~on an hour-for-hour basis~~.

9
10 (7) The administrative presiding justice or the clerk/executive officer,~~the~~
11 ~~managing attorney, or the employee’s supervisor~~ may require supervisors and
12 other court personnel to participate in specific courses or to participate in
13 education in a specific subject matter area as part of their continuing
14 education.

15
16 **(d) Extension of time**

17
18 (1) Upon request and for good cause, a the administrative presiding justice (for
19 that justice’s chambers staff), the managing attorney, or the clerk/executive
20 officer, or a supervisor, if delegated by the clerk/executive officer, or the
21 employee’s supervisor may grant a six-month extension of time an extension,
22 up to one year, to complete the education requirements in this rule.

23
24 (2) If the administrative presiding justice, managing attorney, or the
25 clerk/executive officer or supervisor grants a request for an extension of time,
26 the administrative presiding justice or the clerk/executive officer and the
27 managing attorney, supervisor, or employee who made the request, in
28 consultation with the justice, managing attorney, clerk/executive officer, or
29 supervisor, must also pursue interim means of obtaining relevant educational
30 content.

31
32 (3) An extension of time to complete the hours-based requirement does not affect
33 the timing of the next two-year ~~period~~ education cycle.

34
35 **(e) Records of participation**

36
37 (1) ***

38
39 (2) ~~Each~~ Managing attorneys, supervisors, and employees must keep records of
40 ~~his or her~~ their own participation for two years after each course or activity
41 that is applied toward the requirements.
42
43

1 **Rule 10.473. Minimum education requirements for trial court executive officers**

2
3 (a) ***

4
5 (b) **Content-based requirement**

6
7 (1) ~~Each~~ New executive officers must complete the ~~Presiding Judges Orientation~~
8 ~~and Court Management Program~~ presiding judge and court executive officer
9 orientation program provided by the Judicial Council's Center for ~~Judiciary~~
10 Judicial Education and Research (CJER) within one year of becoming an
11 executive officer and should participate in additional education during the
12 first year.

13
14 (2) ~~Each~~ Executive officers should participate in CJER's ~~Presiding Judges~~
15 ~~Orientation and Court Management Program~~ presiding judge and court
16 executive officer orientation program each time a new presiding judge from
17 ~~his or her~~ their court participates in the course and each time the executive
18 officer becomes the executive officer in a different court.

19
20 (c) **Hours-based requirement**

21
22 (1) ***

23
24 (2) For a new executive officer, the first three-year ~~period~~ education cycle begins
25 on January 1 of the year following the period provided for completion of the
26 required education for new executive officers.

27
28 (3) The following education applies toward the required 30 hours of continuing
29 education:

30
31 (A) Any education offered by an approved provider (~~see under rule~~
32 ~~10.481(a)) and any other education, including education taken to satisfy~~
33 ~~a statutory or other education requirement,~~ approved by the presiding
34 judge as meeting the criteria listed in rule 10.481(b).

35
36 (B) Each hour of participation in ~~traditional (live, face-to-face) education;~~
37 ~~distance education such as broadcasts, videoconferences, and online~~
38 ~~coursework; self-directed study; and faculty service~~ education by an
39 approved provider under rule 10.481, including education that is
40 instructor-led (live remote or in-person), asynchronous (such as videos
41 and e-learning), and self-directed study, counts toward the continuing
42 education requirement on an hour-for-hour basis. The presiding judge
43 has discretion to determine the number of hours, if any, of ~~traditional~~

1 ~~(live, face-to-face)~~ instructor-led (live remote or in-person) education
2 required to meet the continuing education requirement.

3
4 (C) A court executive officer who serves as faculty by teaching legal or
5 judicial education to a legal or judicial audience may apply education
6 hours as faculty service. There is no restriction on the number or
7 percentage of hours that a court executive officer may claim as faculty
8 service. Credit for faculty service counts toward the continuing
9 education requirement on an hour-for-hour basis in the same manner as
10 all other types of education—~~on an hour-for-hour basis.~~

11
12 **(d) Extension of time**

13
14 (1) Upon request and for good cause, a presiding judge may grant ~~a one-year~~
15 ~~extension of time~~ an extension, up to one year, to complete the education
16 requirements in ~~(b) and (c)~~ this rule.

17
18 (2) If the presiding judge grants a request for an extension of time, the presiding
19 judge and the executive officer, ~~in consultation with the presiding judge,~~ must
20 also pursue interim means of obtaining relevant educational content.

21
22 (3) An extension of time to complete the hours-based requirement does not affect
23 the timing of the executive officer's next three-year ~~period~~ education cycle.

24
25 **(e) Record of participation; statement of completion**

26
27 ~~Each~~ Executive officers ~~is~~ are responsible for:

28
29 (1) Tracking ~~his or her~~ their own participation in education and keeping a record
30 of participation for three years after each course or activity that is applied
31 toward the requirements;

32
33 (2) At the end of each year, giving the presiding judge a copy of ~~his or her~~ their
34 record of participation in education for that year; and

35
36 (3) At the end of each three-year ~~period~~ education cycle, giving the presiding
37 judge a signed statement of completion for that three-year ~~period~~ education
38 cycle.

1 **Rule 10.474. Trial court managers, supervisors, and other personnel**

2
3 (a) ***

4
5 (b) **Content-based requirements**

6
7 (1) Each new manager or supervisor must complete orientation courses within
8 ~~six months~~ one year of becoming a manager or supervisor, unless the court's
9 executive officer determines that the new manager or supervisor has already
10 completed these orientation courses or courses covering equivalent content.
11 The courses must include orientation about:

12
13 (A) The judicial branch of California;

14
15 (B) The local court; and

16
17 (C) Basic management and supervision.

18
19 (2) Each new court employee who is not a manager or supervisor must complete
20 orientation courses within ~~six months~~ one year of becoming a court
21 employee, unless the employee's supervisor determines that the new court
22 employee has already completed these orientation courses or courses
23 covering equivalent content. The courses must include orientation about:

24
25 (A) The judicial branch of California;

26
27 (B) The local court; ~~and~~

28
29 (C) Basic employee issues, such as sexual harassment and safety; and

30
31 (D) The employee's specific job.

32
33 (3) ***

34
35 (c) **Hours-based requirements**

36
37 (1)–(2) ***

38
39 (3) The two-year continuing education cycle for all managers, supervisors, and
40 other personnel begins on January 1 of each odd-numbered year. The
41 orientation education required for new managers, supervisors, and other
42 personnel under (b) ~~does not apply~~ applies toward the required hours of
43 continuing education, ~~because it must be completed before they enter the~~

1 two-year period. Each new manager, supervisor, or employee enters the two-
2 year continuing education period on the first day of the quarter following his
3 or her completion of the orientation education required under (b); the quarters
4 begin on January 1, April 1, July 1, and October 1. Each manager, supervisor,
5 or employee who enters the two-year continuing education period after it has
6 begun New managers, supervisors, or employees enter the two-year
7 continuing education cycle on their first day of employment and must
8 complete a prorated number of continuing education hours for that two-year
9 education cycle period, based on the number of quarters remaining in it.

10
11 (4) Any education offered by an approved provider (~~see under rule 10.481(a)~~)
12 and any other education, ~~including education taken to satisfy a statutory,~~
13 ~~rules-based, or other education requirement,~~ that is approved by the executive
14 officer or the employee's supervisor as meeting the criteria listed in rule
15 10.481(b) applies toward the ~~orientation education required under (b) and the~~
16 ~~continuing education required under (c)(1) and (2)~~ this rule.

17
18 (5) Each hour of participation in ~~traditional (live, face-to-face) education;~~
19 ~~distance education such as broadcasts, videoconferences, online coursework;~~
20 ~~and faculty service education by an approved provider under rule 10.481,~~
21 including education that is instructor-led (live remote or in-person),
22 asynchronous (such as videos and e-learning), and self-directed study
23 approved in advance by the direct supervisor of the manager, supervisor, or
24 court employee, counts toward the continuing education requirement on an
25 hour-for-hour basis. The court executive officer has discretion to determine
26 the number of hours, if any, of traditional (live, face-to-face) instructor-led
27 (live remote or in-person) education required to meet the continuing
28 education requirement. Self-directed study is encouraged for professional
29 development but does not apply toward the required hours.

30
31 (6) A manager, supervisor, or employee who serves as faculty by teaching legal
32 or judicial education to a legal or judicial audience may apply education
33 hours as faculty service. There is no restriction on the number or percentage
34 of hours that a manager, supervisor, or employee may claim as faculty
35 service. Credit for faculty service counts toward the continuing education
36 requirement on an hour-for-hour basis in the same manner as all other types
37 of education—~~on an hour-for-hour basis.~~

38
39 (7) The court executive officer may require managers, supervisors, and other
40 court personnel to participate in specific courses or to participate in education
41 in a specific subject matter area as part of their continuing education.
42

1 (d) Extension of time

2
3 (1) Upon request and for good cause, the executive officer may grant ~~a one-year~~
4 ~~extension of time~~ an extension, up to one year, to complete the education
5 requirements in this rule. ~~If an extension is granted, the subsequent two-year~~
6 ~~compliance period begins immediately after the extended compliance period~~
7 ~~ends, unless otherwise determined by the executive officer.~~

8
9 (2) If the executive officer grants a request for an extension of time, the
10 executive officer and the manager, supervisor, or employee who made the
11 request, ~~in consultation with the executive officer~~, must also pursue interim
12 means of obtaining relevant educational content.

13
14 (3) An extension of time to complete the hours-based requirement does not affect
15 the timing of the next two-year education cycle.

16
17 (e) Records of participation

18
19 (1) ***

20
21 (2) ~~Each~~ Managers, supervisors, and employees must keep records of ~~his or her~~
22 their own participation for two years after each course or activity that is
23 applied toward the requirements.

24
25
26 **Rule 10.478. Content-based and hours-based education for court investigators,**
27 **probate attorneys, and probate examiners**

28
29 (a) Definitions

30
31 As used in this rule, the following terms have the meanings specified below, unless
32 the context or subject matter otherwise require:

33
34 (1)-(4) ***

35
36 (5) ~~“CJER” is the Judicial Council’s Center for Judicial Education and Research.~~

37
38 (b) Content-based requirements for court investigators

39
40 (1) ~~Each~~ Court investigators must complete ~~18~~ 12 hours of education within one
41 year of ~~his or her~~ their start date after January 1, 2008 ~~the effective date of~~
42 ~~this rule~~. The education must include the following general topics:

1 (A)–(F) ***

2
3 (2)–(3) ***

4
5 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
6 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
7 ~~but may not be by self-study. Each hour of participation in education by an~~
8 ~~approved provider under rule 10.481, including education that is instructor-~~
9 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
10 ~~and self-directed study approved in advance by the court executive officer or~~
11 ~~the court investigator’s supervisor, counts toward the continuing education~~
12 ~~requirement in (1) on an hour-for-hour basis.~~

13
14 **(c) Content-based education for probate attorneys**

15
16 (1) ~~Each Probate attorneys~~ must complete ~~48~~ 12 hours of education within six
17 months of ~~his or her~~ their start date after January 1, 2008, in probate-related
18 topics, including guardianships, conservatorships, and court-supervised
19 fiduciary accounting.

20
21 (2)–(3) ***

22
23 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
24 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
25 ~~but may not be by self-study. Each hour of participation in education by an~~
26 ~~approved provider under rule 10.481, including education that is instructor-~~
27 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
28 ~~and self-directed study approved in advance by the court executive officer or~~
29 ~~the probate attorney’s supervisor, counts toward the continuing education~~
30 ~~requirement in (1) on an hour-for-hour basis.~~

31
32 **(d) Content-based education for probate examiners**

33
34 (1) ~~Each Probate examiners~~ must complete ~~30~~ 20 hours of education within one
35 year of ~~his or her~~ their start date after January 1, 2008, in probate-related
36 topics, of which ~~48~~ 12 hours must be in guardianships and conservatorships,
37 including court-appointed fiduciary accounting.

38
39 (2)–(3) ***

40
41 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
42 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
43 ~~but may not be by self-study. Each hour of participation in education by an~~

1 approved provider under rule 10.481, including education that is instructor-
2 led (live remote or in-person), asynchronous (such as videos and e-learning),
3 and self-directed study approved in advance by the court executive officer or
4 the probate examiner's supervisor, counts toward the continuing education
5 requirement in (1) on an hour-for-hour basis.
6

7 **(e) Hours-based education for court investigators**
8

9 (1) Each court investigator must complete 12 hours of continuing education on
10 some or all of the general topics listed in (b)(1) each ~~calendar year~~ two-year
11 education cycle. ~~For court investigators employed by or performing services~~
12 ~~under contract with the court before the effective date of this rule, the first~~
13 ~~calendar year the education is required begins on January 1, 2008. For court~~
14 ~~investigators who begin their employment or performance of services under~~
15 ~~contract with the court after the effective date of this rule, the first year this~~
16 ~~education is required begins on January 1 of the year immediately following~~
17 ~~completion of the education required in (b). The education cycle is~~
18 determined in the same manner as in rule 10.474(c)(3).
19

20 (2)-(3) ***
21

22 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
23 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
24 ~~but may not be by self-study. Each hour of participation in education by an~~
25 ~~approved provider under rule 10.481, including education that is instructor-~~
26 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
27 ~~and self-directed study approved in advance by the court executive officer or~~
28 ~~the court investigator's supervisor, counts toward the continuing education~~
29 ~~requirement in (1) on an hour-for-hour basis.~~
30

31 **(f) Hours-based education for probate attorneys**
32

33 (1) ~~Each Probate attorneys~~ must complete 12 hours of continuing education each
34 ~~calendar year~~ two-year education cycle in probate-related subjects, of which
35 six hours per year must be in guardianships and conservatorships, including
36 court-supervised fiduciary accounting. ~~For probate attorneys employed by or~~
37 ~~performing services under contract with the court before the effective date of~~
38 ~~this rule, the first calendar year the education is required begins on January 1,~~
39 ~~2008. For probate attorneys who begin their employment with the court after~~
40 ~~the effective date of this rule, the first year this education is required begins~~
41 ~~on January 1 of the year immediately following completion of the education~~
42 ~~required in (e). The education cycle is determined in the same manner as in~~
43 rule 10.474(c)(3).

1
2 (2)–(3) ***

3
4 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
5 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
6 ~~but may not be by self-study. Each hour of participation in education by an~~
7 ~~approved provider under rule 10.481, including education that is instructor-~~
8 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
9 ~~and self-directed study approved in advance by the court executive officer or~~
10 ~~the probate attorney’s supervisor, counts toward the continuing education~~
11 ~~requirement in (1) on an hour-for-hour basis.~~

12
13 **(g) Hours-based education for probate examiners**

14
15 (1) ~~Each Probate examiners~~ must complete 12 hours of continuing education
16 ~~each calendar year~~ two-year education cycle in probate-related subjects, of
17 which six hours per year must be in guardianships and conservatorships,
18 including court-appointed fiduciary accounting. ~~For probate examiners~~
19 ~~employed by the court before the effective date of this rule, the first calendar~~
20 ~~year the education is required begins on January 1, 2008. For probate~~
21 ~~examiners who begin their employment with the court after the effective date~~
22 ~~of this rule, the first year this education is required begins on January 1 of the~~
23 ~~year immediately following completion of the education required in (d). The~~
24 ~~education cycle is determined in the same manner as in rule 10.474(c)(3).~~

25
26 (2)–(3) ***

27
28 (4) ~~The education required in (1) may be by traditional (face-to-face) or distance-~~
29 ~~learning means, such as broadcasts, videoconferences, or on-line coursework,~~
30 ~~but may not be by self-study. Each hour of participation in education by an~~
31 ~~approved provider under rule 10.481, including education that is instructor-~~
32 ~~led (live remote or in-person), asynchronous (such as videos and e-learning),~~
33 ~~and self-directed study approved in advance by the court executive officer or~~
34 ~~the probate examiner’s supervisor, counts toward the continuing education~~
35 ~~requirement in (1) on an hour-for-hour basis.~~

36
37 **(h)–(i) *****

38
39
40 **Rule 10.479. Education recommendations for appellate and trial court personnel**

41
42 **(a) Education recommendations generally**

1 Each Appellate and trial court executive or administrative officers, managers,
2 supervisors, and other employees, as part of ~~his or her~~ their continuing education,
3 should regularly participate in educational activities related to ~~his or her~~ their
4 responsibilities. Minimum education requirements for court personnel are ~~set forth~~
5 stated in rules 10.471–10.474. The following recommendations illustrate ~~for some~~
6 ~~specific responsibilities~~ how executive and administrative officers, managers,
7 supervisors, and other personnel should participate in more education than is
8 required for some specific responsibilities.

9
10 **(b) Education on treatment of jurors**

11
12 The presiding judge of each trial court should ensure that all court executives and
13 all court employees who interact with jurors are properly trained in the appropriate
14 treatment of jurors. Court executives and jury staff employees should regularly ~~use~~
15 refer to CJER educational materials or other appropriate educational materials and
16 should regularly ~~participate in complete CJER programs or other~~ appropriate
17 educational programs devoted to the treatment of jurors.

18
19 **(c) Fairness and access education**

20
21 In order to achieve the objective of assisting court employees in preserving the
22 integrity and impartiality of the judicial system through the prevention of bias, all
23 court ~~personnel~~ executives and all court employees should regularly participate in
24 education on fairness and access. The education should include instruction on the
25 following subjects: race and ethnicity; gender; sexual orientation; persons with
26 disabilities; and sexual harassment; persons with limited economic means; and
27 persons without stable housing.

28
29 **(d) Education on quality service to court users**

30
31 All court employees who regularly interact with members of the public should
32 ~~regularly~~ participate in education covering appropriate skills and conduct for
33 working with court ~~customers~~ users ~~offered locally or by the Judicial Council~~
34 ~~through CJER~~.

35
36
37 **Rule 10.481. Approved providers; approved course criteria**

38
39 **(a) Approved providers**

40
41 The Judicial Council’s Center for Judicial Education and Research (CJER) is
42 responsible for maintaining a current list of approved providers. The list of
43 approved providers must include the Judicial Council, the California Judges

1 Association, and all California state courts. The list ~~and~~ should also include other
2 reputable national and state organizations that regularly offer education directed to
3 justices, judges, and court personnel. The director of CJER may add or remove
4 organizations from the list of approved providers as appropriate according to ~~these~~
5 the criteria contained in (b). Any education program offered by any of the approved
6 providers that is relevant to the work of the courts or enhances the ~~individual~~
7 participant's participants' ability to perform his or her their jobs may be applied
8 toward the education requirements and expectations stated in rules 10.461–10.479,
9 except for the requirements stated in the rules 10.461(b), 10.462(e), and 10.473(b),
10 ~~for that require a specific provider or providers are required.~~

11
12 **(b) Approved education criteria**

13
14 Education is not limited to the approved providers referred to in (a). Any education
15 from another provider that is approved by the Chief Justice, the administrative
16 presiding justice, or the presiding judge as meeting the criteria listed below may be
17 applied toward the continuing education expectations and requirements for justices,
18 judges, ~~and subordinate judicial officers,~~ ~~or requirements for clerks/executive~~
19 clerk/executive officers, or court executive officers. Similarly, any education from
20 another provider that is approved by the clerk/executive officer, the court executive
21 officer, or the employee's supervisor as meeting the criteria listed below may be
22 applied toward the orientation or continuing education requirements for managers,
23 supervisors, and other employees or the content-based or hours-based continuing
24 education requirements for probate court investigators, probate attorneys, and
25 probate examiners in rule 10.478.

26
27 (1) The education must meet the following ~~three~~ two criteria:

28
29 (A) The subject matter is relevant to the work of the courts or the judicial
30 branch; and

31
32 ~~(B) The education is at least one hour in length; and~~

33
34 ~~(C)~~(B) Anticipated learning outcomes (how new knowledge, skills, or
35 abilities will be applied, demonstrated, or used) are identified prior to
36 the education work.

37
38 (2) The education must also meet at least two of the following five criteria:

39
40 ~~(A)–(D) ***~~

41
42 (E) An assessment tool or activity (such as the development of an action
43 plan to apply the newly gained knowledge or skill) enables the

1 participants to determine whether the skills, abilities, or knowledge
2 gained through the education can be used in the future in ~~his or her~~
3 their work.
4

5 **Advisory Committee Comment**
6

7 **Subdivision (b).** The director of CJER or their designee is available to assist those authorized to
8 approve a request to apply education offered by a non-approved provider in determining whether
9 the education meets the listed criteria.
10

11
12 **Rule 10.491. Minimum education requirements for Judicial Council employees**
13

14 **(a)** ***
15

16 **(b) Education requirements for new employees and new managers and**
17 **supervisors**
18

19 (1) Each new employee with supervisory or management responsibilities must
20 complete the new manager/supervisor orientation within six months of being
21 hired or appointed ~~or as soon as possible after being hired or appointed.~~
22

23 (2) Each new employee, including those with supervisory or management
24 responsibilities, must complete the new employee orientation within six
25 months of being hired ~~or as soon as possible after being hired.~~
26

27 (3) For good cause, the Administrative Director or the employee's office director
28 may grant an extension, up to six months, to complete the education
29 requirements in (1) and (2).
30

31 ~~(3)~~(4) Completion of the orientation courses counts toward the education hours
32 requirement in (c).
33

34 **(c) Continuing education requirements**
35

36 (1)-(2) ***
37

38 (3) The Administrative Director may require management or employees to
39 complete specific compliance courses ~~or specific courses for management.~~
40 This compliance education applies toward the continuing education
41 requirement in (c)(1) on an hour-for-hour basis.
42

43 (4) ***

1
2
3
4
5
6
7
8
9
10

- (5) ~~Continuing education may be live (face-to-face) or distance education, such as webinars, videoconferencing, online courses, and broadcasts. Each hour of participation in education by an approved provider under rule 10.481, including education that is instructor-led (live remote or in-person), asynchronous (such as videos and e-learning), and self-directed study approved in advance by an employee’s supervisor, counts toward the continuing education requirement on an hour-for-hour basis.~~
- (6) ***

DRAFT

SPR 22-07

Judicial Branch Education: Judicial Branch Education: Rules Review and Modernization

(Amend Cal. Rules of Court, rules 2.812, 2.813, 2.815, 5.340, 10.452, 10.461–10.464, 10.468, 10.469, 10.471–10.474, 10.478, 10.479, 10.481, and 10.491)

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

	Commenter	Position	Comment	Committee Response
1.	California Court of Appeal, Fifth Appellate District by Brian Cotta, Clerk/Executive Officer	AM	<p>The Court of Appeal, Fifth Appellate District suggests the following modifications to Item Number: SPR22-07</p> <p>1. PDF page #[17] (beginning on line 1): We suggest changing this paragraph to remove references to the Clerk/Executive Officer and/or Managing Attorney. Because the existing language can be in conflict with local court policies and local contracting manuals, we recommend the entire paragraph be replaced with the following:</p> <p style="padding-left: 40px;">Must ensure that court personnel are reimbursed by their court in accordance with the travel policies issued by the Judicial Council for travel expenses incurred in attending in-state education programs as a participant, except to the extent that: (i) certain expenses are covered by the Judicial Council; or (ii) the education provider or sponsor of the program pays the expenses. Provisions for these expenses must be part of every court's budget. Reimbursement of travel expenses incurred by court personnel in attending out-of-state education programs as a participant may be approved by designated court</p>	<p>The committee thanks the commenter and notes their support for the proposal if modified.</p> <p>1. The committee agrees to modify the proposal as requested by amending rule 10.452(f)(5) to remove reference to the positions of “clerk/executive office or the managing attorney” in the third sentence and add the concluding provision regarding designated authority. The proposed modification is consistent with increasing the flexibility of the courts and in keeping with their current practices and policies.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

			<p>individuals, as defined in local court policies.</p> <p>2. PDF page #35 (beginning on line 10): Only the Administrative Presiding Justice, the Presiding Justice and the Clerk/Executive Officer should be listed with the authority to grant the EoT. This applies to the various sections on this page (sections 1 & 2).</p> <p>3. [Do the terms “asynchronous education” and “eLearning” contained within the proposal require additional definition?] We believe that it would be beneficial to define both terms.</p> <p>4. [Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?] We believe it would be plenty of time.</p>	<p>2. The committee agrees to modify rule 10.472(d)(1)-(2) to eliminate the authority of associate justices to extend deadlines to comply with education requirements for their chamber’s staff. This modification will assist the courts in centralized tracking and aggregate reporting of their court’s education requirements.</p> <p>3. The committee agrees that definitions of these terms would be helpful. It will no longer seek to repeal rule 10.493 and will consider drafting a separate amendment to this rule to address these definitions in a later cycle.</p> <p>4. The committee recognizes the commentator’s acknowledgment that four months would be sufficient to allow implementation of the proposal.</p>
2.	<p>Clerk/Executive Officers for the six districts of the California Courts of Appeal by Charles D. Johnson, Clerk/Executive Officer, California Court of Appeal, First Appellate District</p>	AM	<p>The following comment is submitted on behalf of the Clerk/Executive Officers of all six of the districts of the Court of Appeal, who are also copied on this email.</p> <p>Because each District of the Court of Appeal has its own local contracting manual, which may allow for approval of expenses by the Administrative Presiding Justice, the Clerk/Executive Officer, or some other designee, we suggest that the language proposed for California Rule of Court, rule 10.452(f)(5) be amended as follows:</p>	<p>The committee thanks the commenters and notes their support for the proposal if modified.</p> <p>As noted above, the committee agrees to modify rule 10.452(f)(5) to reflect the current practices and policies of the courts regarding approval of out-of-state travel cost reimbursement for educational purposes.</p> <p>However, the proposed modification differs from the first proposal in two ways. First, the commenters propose retaining the phrase “supervisors and other court personnel” in the rule where the committee proposed deleting “supervisors and other” as redundant language. Since supervisors <u>are</u> court personnel, the</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

		<p>(5) Must ensure that supervisors and other court personnel are reimbursed by their court in accordance with the travel policies issued by the Judicial Council for travel expenses incurred in attending in-state education programs as a participant, except to the extent that: (i) certain expenses are covered by the Judicial Council; or (ii) the education provider or sponsor of the program pays the expenses. Provisions for these expenses must be part of every court's budget. Reimbursement of travel expenses incurred by supervisors and other court personnel in attending out-of-state education programs as a participant may be approved by designated court administrators, as defined in court policies.</p> <p>In most districts, the managing attorney has no role in approving expenditures, while often, for example, the assistant clerk/executive officer does. Changing the rule in the way suggested in this comment would allow for a certain flexibility amongst the districts, while also reducing the likelihood that the rule and/or any district's local contracting manual would need to be periodically amended.</p> <p>We hope you consider this suggested change as you finalize the language of the rule. If you have any questions, please contact me at your convenience.</p>	<p>committee declines to keep the redundant language.</p> <p>Second, the commenters' proposed language deletes the word "local" immediately before "court policies" in the last sentence. The committee's position is that retaining the qualifier "local" is helpful as a guide in complying with the provisions of rule 10.452(f)(5).</p>
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Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

3.	<p>Susan Ryan Chief Deputy of Legal Services Superior Court of California, County of Riverside 4050 Main St Riverside, CA 92501-3702</p>	AM	<p>Under Cal Rules of Court, rule 10.462(d)(4), for those judicial officers who serve as faculty by teaching legal or judicial education, there is confusion with respect to whether the judicial officer's faculty service hours include the time it takes to prepare to teach. Some interpret rule 10.462(d)(4) as precluding any claim for preparation time. However, the history of Rule 10.462 seems to make clear that preparation time may indeed be claimed by the judicial officer. Because of this confusion, I suggest further amending rule 10.462(d)(4) to define "faculty service" to specifically include preparation time.</p>	<p>The committee thanks the commenter and notes their support for the proposal if modified.</p> <p>The committee disagrees with the commenters' assessment that the history of rule 10.462 clarifies that preparation time may currently be claimed for judicial officer faculty service. On the contrary, rule 10.462 was amended in 2012 to remove a multiplier that allowed judicial officers to claim preparation time for faculty service. The 2012 amendment also eliminated the cap on faculty service and specified that faculty credit is earned on an "hour-for-hour basis" in the same manner as any other type of education. At the same time, the amendment significantly broadened the audience to whom a judge could teach and claim education credit to any legal or judicial topic for any legal or judicial audience. By removing the cap on faculty service and extending the target audience, the 2012 amendment disallowed the use of preparation time for education credit and limited faculty credit to actual classroom time.</p> <p>The rule in its current form ensures that a judicial officer claiming 30 hours of faculty credit provides 30-hours of education content to a legal or judicial audience. For this reason, the committee declines to reinstate credit for course preparation time</p>
4.	<p>Iyana Doherty Courtroom Operations Supervisor Superior Court of California, County of Orange 8141 13th Street Westminster, CA 92683-4593</p>	AM	<p>The term "eLearning" seems self-explanatory, but the term "asynchronous education" should be defined.</p> <p>Allowing a wider range of options for educational requirements for example virtual education, gives the courts more flexibility to fit training into smaller time pockets and rely less</p>	<p>The committee thanks the commenter and notes their support for the proposal if modified.</p> <p>The committee agrees that definitions of these terms would be helpful. It will no longer seek to repeal rule 10.493 and will consider drafting a separate amendment to this rule to address these definitions in a later cycle.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

		<p>on in-person training, which often requires a travel expense.</p> <p>Revising the processes and procedures by Human Resources department and more investment and training for Analyst units in electronic class environment. Updating work environments to be more conducive to creating electronic classes. (Providing updated software programs, software training, microphones, quiet spaces for recording)</p>	<p>The remainder of the commenters' response does not pertain to the proposal language. It is a general request for more resources and investment in court remote education for court staff. This request is best directed to the local courts with the responsibility and authority to implement local education processes and procedures and provide an environment conducive to both instructor-led and asynchronous education.</p>
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JUDICIAL COUNCIL OF CALIFORNIA

LEGAL SERVICES

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-7446 • Fax 415-865-7664 • TDD 415-865-4272

MEMORANDUM

Date

August 15, 2022

Action Requested

Approve Addition to Annual Agenda

To

Rules Committee

Deadline

August 23, 2022

From

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair

Hon. Amy M. Pellman, Cochair

Contact

Tracy Kenny, 916-263-2838

tracy.kenny@jud.ca.gov

Daniel Richardson, 415-865-7619

daniel.richardson@jud.ca.gov

Subject

Juvenile Dependency Law: Counsel
Collections Program Guidelines

Executive Summary

The Family and Juvenile Law Advisory Committee seeks to add to its annual agenda an item to allow a change to the threshold income level for a presumptive inability to pay for counsel under the Juvenile Dependency Counsel Collections Program to match the civil fee waiver income threshold, which was recently updated. In 2012, the committee chose to use the threshold for income eligibility for a civil fee waiver in Government Code section 68632 (income of 125 percent of the federal poverty line) to establish the presumption of a parent's inability to pay for attorney's fees. With a recent amendment to section 68632 raising the figure to 200 percent, the committee proposes that the presumption of inability to pay also be adjusted for court-appointed dependency counsel in Appendix F to the California Rules of Court to reflect this change and proposes to make this change effective at the same time that the annual update to the federal poverty guidelines are made at the March 2023 Judicial Council meeting.

Action Requested

The Family and Juvenile Law Advisory Committee asks that the Rules Committee supplement the 2022 Annual Agenda of the Family and Juvenile Law Advisory Committee with a line item to include the Family and Juvenile Law Advisory Committee’s proposal to update Appendix F to the California Rules of Court.

Basis for Request

Background

As recommended by the Family & Juvenile Law Advisory committee, effective January 1, 2013, the Judicial Council adopted *Guidelines for the Juvenile Dependency Counsel Collections Program* and inserted it as Appendix F to the California Rules of Court by an amendment to rule 1.4(d). This recommendation fulfilled the council’s legislative directive to “establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors ... in dependency proceedings” (Welf. & Inst. Code, § 903.47(a)). As required by the statute, the guidelines include a statewide standard for determining an obligated person’s ability to pay reimbursement, as well as policies and procedures to allow courts to recover costs associated with implementing the counsel collections program.

Appendix F includes a two-tiered standard to determine inability to pay, elaborated in section 6(d). In the first tier, a responsible person who meets the standards for a civil fee waiver under Government Code section 68632 is presumed unable to pay and eligible for a waiver of liability:

If a responsible person receives qualifying public benefits or has a household income *125 percent or less of the threshold established by the federal poverty guidelines* in effect at the time of the inquiry, then he or she is presumed to be unable to pay reimbursement and is eligible for a waiver of liability (italics added).

(Cal. Rules of Court, App. F, § 65(d)(1).)¹

The guidelines permit a local court to make a policy determination as to whether circumstances in its jurisdiction warrant further inquiry into the financial condition of a person who meets these threshold requirements.

Rationale

In 2012, the committee made a policy decision to use the threshold for income eligibility for a civil fee waiver used in section 68632, income of 125 percent of the federal poverty line, to

¹ While the rule references the standard of 125% of federal poverty, the report to the Judicial Council proposing the rule expressly stated that the intent of the proposal was to tie presumptive ineligibility to reimburse for the cost of counsel to the civil filing fee waiver standard: “In the first tier, a responsible person who meets the standards for a civil fee waiver under Government Code section 68632 is presumed unable to pay and eligible for a waiver of liability.” See Judicial Council of Cal., Advisory Com. Rep., *Juvenile Dependency: Counsel Collections Program* (September 14, 2012), p.2, <https://www.courts.ca.gov/documents/jc-20121026-itemA20.pdf>

establish the presumption of a parent's inability to pay for attorney's fees. Recently, Assembly Bill 199 (Stats. 2022, ch. 57) was signed into law, amending Government Code 68632(b) and raising the threshold for a civil fee waiver to 200 percent of the federal poverty guidelines:

An applicant whose monthly income is 200 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of paragraph (2) of Section 9902 of Title 42 of the United States Code or a successor statute or regulation.

(Gov. Code, § 68632(b)(1).)

The committee proposes updating Appendix F to reflect this change in the eligibility for a civil fee waiver in Government Code 68632. Doing so will keep the figure used in Appendix F tied to the civil fee waiver threshold and will reflect the state's goal of providing greater access to justice, reducing the economic burden of some of the state's most vulnerable individuals whose children have been removed from them.

The form *Financial Declaration—Juvenile Dependency* (form JV-132) would also need to reflect the change to the income threshold in gross monthly income tables to reflect the change in Appendix F. In addition, a presumptive inability to pay in Appendix F is established if the individual receives qualified public benefits under Government Code section 68632.

Government Code section 68632 was updated by AB 199 to add two qualifying benefits for a civil fee waiver:

1. California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program), and
2. Unemployment compensation

The committee proposes that the list of qualifying public benefits in item 2 of JV-132 be updated to include these two new benefits. This form and the guidelines are typically updated annually to reflect new federal poverty rate calculations which are typically available in January of each year. The committee is proposing to amend its agenda to make this change to reflect the change in the fee waiver eligibility statute so that these revisions can all be made at the same time, and be effective immediately following the March 2023 Judicial Council meeting, thereby providing financial relief to fee waiver eligible parents seeking to reunify with their children while minimizing form revisions.

Annual Agenda

The Family and Juvenile Law Advisory Committee proposes that the proposal updating Appendix F be added to its 2022 annual agenda as follows:

Title: Juvenile Dependency Law: Counsel Collections Program Guidelines.

Project Summary: The Family and Juvenile Law Advisory Committee proposes changing the threshold income level for a presumptive inability to pay for counsel under the Juvenile

Dependency Counsel Collections Program to match the civil fee waiver income threshold, which was recently updated. In 2012, the committee chose to use the threshold for income eligibility for a civil fee waiver in Government Code section 68632 (income of 125 percent of the federal poverty line) to establish the presumption of a parent's inability to pay for attorney's fees. With a recent amendment to section 68632 raising the figure to 200 percent, the committee proposes that the presumption of inability to pay also be adjusted for court-appointed dependency counsel in Appendix F to the California Rules of Court to reflect this change.

Status/Timeline: The proposal would circulate during a special cycle that will also include another proposal addressing the Division of Juvenile Justice (DJJ) Realignment Trailer Bill (SB 92).

Fiscal Impact/Resources: CFCC Staff in consultation with Legal Services and other staff to the council will provide staff support, including data collection, research, and technical assistance, to the committee to allow the required work to be completed in a timely manner.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:

Recommend JC approval (has circulated for comment)

Title of proposal: Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets

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

Adopt forms FL-540 and FL-541

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee and the Tribal Court-State Court Forum

Staff contact (name, phone and e-mail): Ann Gilmour, 415-865-4207, ann.gilmour@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Family and Juvenile Advisory Committee Annual Agenda, Item 1 g. at page 4: Legislative Changes from the 2021 Legislative Session. As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently. g. AB 627 (Waldron) Recognition of tribal court orders: rights in retirement plans or deferred compensation (Ch. 627, Stats. of 2021) Establishes procedures for California courts to recognize tribal court family law orders involving the division of retirement and other deferred compensation benefits.

Tribal Court-State Court Forum Annual Agenda (Approved by the Executive and Planning Committee on March 11, 2021), Item 2 at page 7: Implement a Legislative Proposal to Facilitate Recognition of Tribal Court Orders Regarding the Division of Marital Assets as "Qualified Domestic Relations Order" Within the Meaning of 29 USC §1056(d)(3)(B) to Divide Pensions and Other Benefits Within the Scope of the Employee Retirement Income Security Act (ERISA) and Other Pension Plans

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

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

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-160

For business meeting on: September 19–20, 2022

Title

Family Law: Recognition of Tribal Court
Orders Relating to Division of Marital Assets

Agenda Item Type

Action Requested

Rules, Forms, Standards, or Statutes Affected

Adopt forms FL-540 and FL-541

Effective Date

January 1, 2023

Recommended by

Tribal Court–State Court Forum
Hon. Abby Abinanti, Cochair
Hon. Suzanne N. Kingsbury, Cochair

Date of Report

August 10, 2022

Contact

Ann Gilmour, 415-865-4207,
ann.gilmour@jud.ca.gov

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary

The Family and Juvenile Law Advisory Committee and the Tribal Court–State Court Forum recommend that the Judicial Council, effective January 1, 2023, adopt two new forms to implement Assembly Bill 627 (Stats. 2021, ch. 58). This was Judicial Council–sponsored legislation that added section 2611 to the Family Code and revised various provisions of the Tribal Court Civil Money Judgment Act found in the Code of Civil Procedure. The provisions ensure that divorce or dissolution judgments issued by tribal courts that include division of pension assets are effective and, in particular, are recognized as meeting the requirements of the Employee Retirement Income Security Act of 1974 (ERISA). AB 627 mandated that the Judicial Council adopt forms to implement the legislation.

Recommendation

The Family and Juvenile Law Advisory Committee and the Tribal Court–State Court Forum recommend that the Judicial Council, effective January 1, 2023, adopt:

1. *Joint Application for Recognition of Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation* (form FL-540); and
2. *Application for Recognition of Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation* (form FL-541).

The proposed new forms are attached at pages 6–9.

Relevant Previous Council Action

In 2010, the Judicial Council established the Tribal Court–State Court Forum bringing together tribal court and state court judges to address areas of mutual concern. In October 2013, the Judicial Council adopted rule 10.60 of the California Rules of Court establishing the forum as a formal advisory committee to the council. Part of the forum’s charge is to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines. In 2012, the Judicial Council proposed legislation that eventually became the Tribal Court Civil Money Judgment Act (Sen. Bill 406 (Evans); Stats. 2014, ch. 243). This legislation added sections 1730–1741 to the Code of Civil Procedure to clarify and simplify the process for recognition and enforcement of tribal court civil money judgments.

Possibly because the provisions of the Tribal Court Civil Money Judgment Act did not address divorce and dissolution orders, and expressly excluded some such orders, tribal courts reported that litigants were having issues with recognition of domestic relations orders that included division of pension benefits and other deferred compensation benefits governed by ERISA or a similar statute. In 2011, the U.S. Department of Labor issued guidance on when a domestic relations order issued under tribal law would be a “judgment, decree or order . . . made pursuant to a State domestic relations law within the meaning of federal law.”¹ That guidance concluded that a tribal court order could only meet the standard for a “qualified domestic relations order” under ERISA if it was treated or recognized as such by the law of a state that could issue such an order.

The result of the guidance issued by the U.S. Department of Labor is that, for a tribal court divorce or dissolution order to effectively distribute pension or other deferred compensation benefits governed by ERISA, state law must recognize the order as a judgment, decree, or order made under state domestic relations law.

¹ Advisory Opn. 2011-03A (Feb. 2, 2011), www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/advisory-opinions/2011-03a.

Prior to the passage of AB 627, California law did not explicitly recognize judgments or orders from tribal courts that divide pension assets as judgments or orders made under state domestic relations law as required for orders to be valid under ERISA. Further, California law at the time had no mechanism to “recognize” a tribal court order. Therefore, in order for a party in a tribal court action to have an ERISA domestic relations order accepted, that party would have to “register” the order.

To remedy this problem, the Judicial Council sponsored and the Legislature enacted AB 627. AB 627 creates a simplified process for California courts to recognize domestic relations orders from tribal courts that would meet the definition of a “qualified domestic relations order” under ERISA and other similar statutes if they were issued by a state court. AB 627 mandates that the Judicial Council create a form or forms to implement the statute.

Analysis/Rationale

Section 1733.1(a) of the Code of Civil Procedure, added by AB 627, creates a process where the parties to the underlying tribal court proceeding, when they both agree, may file a joint application for recognition of a tribal court order, and section 1733.1(b) mandates that the application be on a form adopted by the Judicial Council. Proposed new form FL-540 fulfills that mandate, for a joint application. The FL-540 contains all the content required by section 1733.1(a), including the names and addresses of the joint applicants and the name and address of the tribal court, with an item stating that a certified copy of the order is attached. Although not required by the statute, the committees determined that adding the telephone number and email address for the tribal court that issued the underlying order would be useful to facilitate communication.

Section 1733.1(e) contemplates the situation where one of the parties to the tribal court order does not agree to join in the application and states that the other party may proceed by having the tribal court execute a certificate in lieu of the signature of the other party. Section 1733.1(e) mandates that the Judicial Council adopt a format for that certificate. The committees concluded that it would be clearest to create a separate form for the situation where one party is not joining in the application, and to include the certificate required to be executed by the tribal court in that form. Proposed new form FL-541 is for this situation. This form, like form FL-540, requires name, address, and contact information for the applicant and for the other party to the underlying tribal court case. It also includes an item to check if the applicant asked the other party to agree to file a joint application, and the other party did not agree or is unable to file jointly. The certificate to be executed by the tribal court on any application made by only one party is on the second page of form FL-541. The certificate requires that an authorized representative of the tribal court not only declare that the attached copy of the order is a true copy, but also that the order was made in compliance with the tribal court’s rules and procedures and that the order is final.

Policy implications

AB 627 requires that any application made under these provisions be on a form developed by the Judicial Council and also requires development of a format of tribal court certificate when one party to the Tribal Court action does not join in the application. Any policy implications are therefore due to the legislation, not this proposal.

Comments

The proposal circulated for public comment during the spring 2022 invitation-to-comment cycle. It was sent to the standard mailing list for family and juvenile law proposals that 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, legal services attorneys, social workers, probation officers, Court Appointed Special Advocate (CASA) programs, and other juvenile and family law professionals. It was also sent to tribal leaders, tribal advocates, and tribal attorneys, included in the monthly newsletter distributed by the Tribal Court–State Court Forum and sent to the listserv of the California Department of Social Services Office of Tribal Affairs to reach those with an interest in the Indian Child Welfare Act and tribal issues.

The proposal received four comments. The comments were from the California Tribal Families Coalition, the Orange County Bar Association, the Superior Court of Orange County, and the Superior Court of San Diego County. Neither the California Tribal Families Coalition nor the Superior Court of Orange County indicated whether or not they agreed with the proposal. The Orange County Bar Association and the Superior Court of San Diego County both indicated they agreed if modified.

The comments mainly suggested clarifications or corrections to language in the proposed forms. The forms were revised in response to those comments.

One commenter suggested that we draft a form of order recognizing the tribal court order. Under section 2611 of the Family Code, no order issues from the state court following the filing of the tribal court order: any order filed in accordance with section 1733.1 “shall be recognized as an order made pursuant to the domestic relations law of this state.” However, given that this is not a common approach, an alert box was added to the bottom of each form stating that the application is being made under section 1733.1 of the Code of Civil Procedure and according to section 2611 of the Family Code, the tribal court order shall be recognized as an order made pursuant to the domestic relations laws of this state.

The invitation to comment had specifically asked whether there should be one form for both a joint application and an application made by only one of the parties to the underlying tribal court action. Three of the four commenters felt that two forms were preferable to one. The California Tribal Families Coalition indicated that they believed that one form would be preferable, but after discussion and consideration the committees determined that because only one form of application requires a certificate from the tribal court, it was clearer to have a separate form for

that situation. The committees therefore decided to proceed with two forms, which is also consistent with the way the proposal circulated for comment.

The invitation to comment also specifically asked whether statewide rules for processing these applications would be helpful. All four commenters indicated that statewide rules would be helpful. The committees will consider developing such rules in a future cycle.

As circulated for public comment, the proposal contemplated allowing those who benefit from an order – such as children or other dependents who receive support payments or other allocations from a pension plan or other plan for deferred compensation – to use the simplified filing process provided for in section 1733.1 of the Code of Civil Procedure. Following comment period, however, the committees removed the reference to beneficiaries after concluding that legislation only authorized the simplified process in section 1733.1 to be used by the parties to the tribal court action. AB 627 did amend section 1731(b)(2) and (3) of the Code of Civil Procedure to permit recognition of tribal court orders establishing the right of a child or other dependent assigned a right to benefits from a retirement plan or other plan of deferred compensation to have that order recognized under section 1734 of the Code of Civil Procedure. The committees will consider in the future, as time and resources allow, whether some expedited process should be recommended for those requests for recognition.

Alternatives considered

The alternative of taking no action was not considered because the statute requires that the application be made on a Judicial Council form and that the Judicial Council develop a form of tribal court certificate. The committees did consider all of the alternatives discussed above in the Comments section.

Fiscal and Operational Impacts

Both of the superior court commenters indicated that there would be some costs associated with implementation, including updating internal procedures, creating event codes, case management entries, and training staff. These costs are one time and unavoidable given the legislative mandate to implement AB 627.

Attachments and Links

1. Forms FL-540 and FL-541, at pages 6–9
2. Chart of comments, at pages 10–14

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
APPLICANT ONE: APPLICANT TWO:		
JOINT APPLICATION FOR RECOGNITION OF TRIBAL COURT ORDER DIVIDING RETIREMENT PLAN OR OTHER DEFERRED COMPENSATION		CASE NUMBER:

Use this form to ask the court to recognize a tribal court order that assigns all or part of the following types of benefits to an alternative payee: child support payments; spousal support payments; or marital property rights for a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation. You can make this application in the superior court of any county in which an applicant resides. **You must attach a certified copy of the tribal court order.**

If one party to the tribal court action has not agreed to or is unable to proceed with the filing of a joint application for recognition, use *Application for Recognition of Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation* (form FL-541).

Note: Recognition of a tribal court order based on this application does not give a court of this state jurisdiction to modify or enforce the tribal court order.

1. Applicant One (Petitioner in the tribal court action) (*name*):
 Mailing address:

 Telephone number:
 Email address:

2. Applicant Two (Respondent in the tribal court action) (*name*):
 Mailing address:

 Telephone number:
 Email address:

3. Tribal court that issued the order (*name*):
 Mailing address:

 Telephone number:
 Email address:

APPLICANT ONE: APPLICANT TWO:	CASE NUMBER:
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4. The applicants are parties to the underlying action in tribal court, and ask the court to recognize the order from the tribal court (*name of court*): _____ issued on (*date issued with tribal court*): _____ under Code of Civil Procedure section 1733.1.

6. A certified copy of the tribal court order to be recognized is attached to this form.

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

Date: _____

 (TYPE OR PRINT NAME)

 _____
 (SIGNATURE OF APPLICANT ONE)

Date: _____

 (TYPE OR PRINT NAME)

 _____
 (SIGNATURE OF APPLICANT TWO)

Date: _____

 (TYPE OR PRINT NAME)

 _____
 (SIGNATURE OF ATTORNEY)

Date: _____

 (TYPE OR PRINT NAME)

 _____
 (SIGNATURE OF ATTORNEY)

Notice: This application form complies with the requirements of Code of Civil Procedure section 1733.1. Under Family Code section 2611, a final order of a tribal court filed in accordance with section 1733.1 of the Code of Civil Procedure shall be recognized as an order made pursuant to the domestic relations laws of this state.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
APPLICANT: RESPONDENT:	
APPLICATION FOR RECOGNITION OF TRIBAL COURT ORDER DIVIDING RETIREMENT PLAN OR OTHER DEFERRED COMPENSATION	CASE NUMBER:

This form is for use by an applicant when the other party to the tribal court action has not agreed to or is unable to proceed with the filing of a joint application for recognition. If both parties to the tribal court action agree to the application, use the *Joint Application for Recognition of a Tribal Court Order Dividing Retirement Plan or Other Deferred Compensation* (form FL-540).

Use this form to ask the court to recognize a tribal court order that establishes a right to child support payments, spousal support payments, or marital property rights for a spouse, former spouse, child, or other dependent of a participant in a retirement plan or other plan of deferred compensation, and assigns all or part of the benefits to an alternative payee.

You can make this application in the superior court of the county in which either party to the tribal court action resides. (Code Civ. Proc., § 1733.1(c).) **You must have the tribal court complete the certificate on page 2 and attach a certified copy of the tribal court order.**

Note: Recognition of a tribal court order based on this application does not give a court of this state jurisdiction to modify or enforce the tribal court order.

1. Applicant (Petitioner or Respondent in tribal court action) (name):
 Mailing address:

Telephone number:
 Email address:

2. Respondent (Petitioner or Respondent in tribal court action) (name):
 Mailing address:

Telephone number:
 Email address:

3. Tribal court that issued the order (name):
 Mailing address:

Telephone number:
 Email address:

4. Applicant states that

a. Applicant and respondent are parties to the underlying action in the tribal court and the order issued by the tribal court on (date issued):

b. Applicant has tried to have the respondent agree to the filing of a joint application under Code of Civil Procedure section 1733.1(a), but the respondent has not agreed or is unable to proceed.

APPLICANT: RESPONDENT:	CASE NUMBER:
---------------------------	--------------

- 4. c. Applicant asks the court to recognize the order from the tribal court (*name of court*):
 issued on (*date issued by tribal court*): _____ under Code of Civil Procedure section 1733.1.

- d. A certified copy of the tribal court order to be recognized is attached to this form.

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

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT)

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY FOR APPLICANT (if any))

CERTIFICATE OF TRIBAL COURT

- 1. I (*insert name*): _____ am the (*insert title of position*): _____ with the
 (*insert name of tribal court*): _____ tribal court.

- 2. I certify that the attached is a true copy of the order issued by the (*name of tribal court*):
 on (*date the order was issued*): _____ .

- 3. I certify that the attached order was made in compliance with the court's rules and procedures and the order is final.

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

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF AUTHORIZED TRIBAL COURT REPRESENTATIVE)

Notice: This application form complies with the requirements of Code of Civil Procedure section 1733.1. Under Family Code section 2611, a final order of a tribal court filed in accordance with section 1733.1 of the Code of Civil Procedure shall be recognized as an order made pursuant to the domestic relations laws of this state.

Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets (Adopt forms FL-540 and FL-541)

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

	Commenter	Position	Comment	Committee Response
1.	California Tribal Families Coalition by Mica Llerandi, Senior Attorney, Legal and Program Services	N/I	<p><i>Does the proposal adequately address the stated purpose?</i> Yes, the proposal is clearly and adequately addressed.</p> <hr/> <p><i>Is it clearer to have two application forms, one for joint applications and one for single-party applications, or should there be a single application form that could be used for either a joint or solo application?</i> After reviewing the proposed form, it seems that having a single form for either joint or solo application will be easier to use. When using two forms, parties may become confused about which form to use.</p> <hr/> <p><i>Do commenters suggest any additions or changes to the proposed tribal certificate in the proposed form FL-541?</i> The Coalition makes the following recommendations (see screenshot below): - Removing “Representative” and leaving it as “Certification of Tribal Court.” - Removing “tribal court” as the name may be in the title of the Tribe’s court name.</p> <hr/> <p><i>Would rules describing the process for recognizing and filing these tribal court orders be useful and of assistance to the courts and justice partners?</i> Yes. Providing rules on how the recognition process works would provide practitioners greater clarity of the court’s process. Additionally, it might be beneficial to have a form for the order</p>	<p>No response required.</p> <hr/> <p>The majority of commenters felt that two forms were preferable to one. After discussion and consideration the committees determined that because only one form of application requires a certificate from the tribal court, it was clearer to have a separate form for that situation. The committees have decided to proceed with two forms as circulated.</p> <hr/> <p>The form has been revised in response to these suggestions.</p> <hr/> <p>All commenters agreed that rules would be helpful, and the committees will consider developing rules in a future cycle.</p> <hr/> <p>Under section 2611 of the Family Code, no order issues from the state court following recognition</p>

Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets (Adopt forms FL-540 and FL-541)

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

			recognizing the tribal court order.	of the tribal court order. The tribal court order is recognized upon filing. However, in response to this comment language has been added to the bottom of each form clarifying that it was filed under section 1733.1 of the Code of Civil Procedure and pursuant to section 2611 of the Family Code the tribal court order shall be recognized as an order made pursuant to the domestic relations laws of this state.
2.	Orange County Bar Association by Daniel S. Robinson, President	AM	<p>There is an extra word on page two, item 5 of FL-540.</p> <p>The applicants are parties to the underlying action, or in the case of another applicant a beneficiary of the order, in tribal court, (date filed with tribal court) ask the court to recognize of the order from the tribal court (name of court) issued on (date filed with tribal court) under Code of Civil Procedure section 1733.1.</p>	The form has been revised in response to this comment.
			Does the proposal appropriately address the stated purpose? Yes.	No response required.
			Is it clearer to have two application forms, one for joint applications and one for single-party applications, or should there be a single application form that could be used for either a joint or solo application? Two forms are clearer.	No response required.
			Do commenters suggest any additions or changes to the proposed tribal certificate in proposed form FL-541? No.	No response required.
			Would rules describing the process for recognizing and filing these tribal court orders be useful and of assistance to the courts and justice partners? Yes.	All commenters agreed that rules would be helpful, and the committees will consider developing rules in a future cycle.

Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets (Adopt forms FL-540 and FL-541)

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

3.	Superior Court of California, County of Orange by Vivian Tran, Operations Analyst	N/I	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes, the proposal appropriately addresses the stated purpose.</p>	No response required.
			<p><i>Is it clearer to have two application forms, one for joint applications and one for single-party applications, or should there be a single application form that could be used for either a joint or solo application?</i> It is clearer to have two application forms. It would be too confusing to have both options on one form, and it would also make the form longer than it should be.</p>	No response required.
			<p><i>Do commenters suggest any additions or changes to the proposed tribal certificate in n proposed form FL-541?</i> In item number 4(a), the recommendation is to remove the word “in,” and the space between “tribal court” and “on (date).”</p>	The form was revised in response to this comment.
			<p><i>Would rules describing the process for recognizing and filing these tribal court orders be useful and of assistance to the courts and justice partners?</i> Yes, the rules would be useful to the courts and justice partners.</p>	All commenters agreed that rules would be helpful, and the committees will consider developing rules in a future cycle.
			<p><i>Would the proposal provide cost savings? If so, please quantify.</i> The proposal does not appear to provide cost savings.</p>	No response required.
			<p><i>What would the implementation requirements be for courts—for example, training staff (please</i></p>	No response required.

Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets (Adopt forms FL-540 and FL-541)

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

			<p><i>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?</i></p> <p>Creating or revising case processing and courtroom procedures. Training case processing clerks and courtroom clerks (approximately 1-2 hours). Creating event codes for case management systems.</p>	
			<p><i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Yes, three months will be sufficient time for implementation.</p>	No response required.
			<p><i>How well would this proposal work in courts of different sizes?</i></p> <p>This proposal would work for Orange County.</p>	No response required.
4.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p>	No response required.
			<p>Is it clearer to have two application forms, one for joint applications and one for single-party applications, or should there be a single application form that could be used for either a joint or solo application? Yes. It is clearer to have two separate forms.</p>	No response required.
			<p>Do commenters suggest any additions or changes to the proposed tribal certificate in the proposed form FL-541? No. The certificate appears to be sufficient.</p>	No response required.

Family Law: Recognition of Tribal Court Orders Relating to Division of Marital Assets (Adopt forms FL-540 and FL-541)

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

		<p>Would rules describing the process for recognizing and filing these tribal court orders be useful and of assistance to the courts and justice partners? Yes.</p>	<p>All commenters agreed that rules would be helpful, and the committees will consider developing rules in a future cycle.</p>
		<p>Would the proposal provide cost savings? If so, please quantify. No.</p>	<p>No response required.</p>
		<p>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? Updating internal procedures, case management entries, and training staff.</p>	<p>No response required.</p>
		<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p>	<p>No response required.</p>
		<p>How well would this proposal work in courts of different sizes? It appears that the proposal would work for courts of all sizes.</p>	<p>No response required.</p>
		<p>FL-540: Propose deleting “the” from the following sentence in the information box “If the one party to the tribal court action...”</p>	<p>The form was revised in response to this comment.</p>

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Rules Committee Meeting Date: 08/23/2022

Title of proposal: Juvenile Law: Short-Term Residential Therapeutic Program Placement

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

Amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV 240; approve form JV 459(A); revise forms JV 235, JV 236, JV 237, JV 238, JV 239, JV-320, JV-410, JV 421, JV 430, JV 432, JV 433, JV 435, JV 437, JV 438, JV 440, JV 442, JV 443, JV 445, JV 446, JV 455, JV 457, JV 461(A), JV 462, JV 642, JV 667, JV 672, JV 674, and JV 678

Committee or other entity submitting the proposal:
Family & Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Daniel Richardson, 415-865-7619, daniel.richardson@jud.ca.gov; Karis Daggs; 415-865-7704; karis.daggs@jud.ca.gov

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

Approved by Rules Committee date: November 2, 2021

Project description from annual agenda: Monitor implementation of the Family First Prevention Services Act (FFPSA), which reforms federal child welfare financing streams, Title IV-E and Title IV-B of the Social Security Act, to provide services to families who are at risk of entering the child welfare system. Budget trailer bill legislation enacted in 2021, with an effective date of October 1, 2021 enacted key changes to court processes for approving placements in Short Term Residential Therapeutic Programs that required rule and form changes to implement. Those changes were approved by the Judicial Council at its October 1, 2021 meeting, and will circulate for public comment in the 2022 Winter rules and forms cycle for future revisions as well as to implement additional legislative clarifications.

If requesting July 1 or out of cycle, explain:

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

This proposal circulated for comment twice. It circulated for comment in the Spring 2021 cycle before Assembly Bill 153 (the bill related to this proposal) was signed into law and became effective on October 1, 2021. It circulated again in the Spring 2022 cycle seeking comment on changes made to implement portions of AB 153 that were included after the Spring 2021 comment period and that were not made due to time constraints.

Towards the end of the 2021 cycle, Justice Fujisaki discussed with staff her preference that forms include a full citation for statutory references. Full citations in the body of the forms were included in forms for the proposal of 2021. This year, the committee circulated a proposal in which the committee recommended that a short hand abbreviation of "Welf. & Inst. Code, § ____" be used in the body of the forms, but only if a full citation to Welfare and Institutions Code was provided in the footer of the first page of the form. Any citations to other codes that were not spelled out fully in the footer were spelled out fully in the body of the forms. The change was pointed out in the Invitation to Comment, and no comments were received on this point. The reasoning for this approach was that juvenile forms are already very long and contain frequent references to the Welfare and Institutions Code. A full citation for every statutory reference would increase the length of the forms and might make forms more cumbersome for users. As proposed, the forms use this approach to statutory citations, but staff is ready to change the forms to include a full citation in the body of the form if that remains the preferred approach of the committee and the committee chair.



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-164

For business meeting on September 20, 2022

Title

Juvenile Law: Short-Term Residential
Therapeutic Program Placement

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Date of Report

August 16, 2022

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 5.618,
5.697, and 5.903; adopt form JV-240;
approve form JV-459(A); revise forms
JV-235, JV-236, JV-237, JV-238, JV-239,
JV-320, JV-410, JV-421, JV-430, JV-432,
JV-433, JV-435, JV-437, JV-438, JV-440,
JV-442, JV-443, JV-445, JV-446, JV-455,
JV-457, JV-461(A), JV-462, JV-642,
JV-667, JV-672, JV-674, and JV-678

Contact

Daniel Richardson, 415-865-7619
daniel.richardson@jud.ca.gov
Karis Daggs, 415-865-7704
Karis.daggs@jud.ca.gov

Recommended by

Family and Juvenile Law Advisory
Committee
Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair

Executive Summary

The Family and Juvenile Law Advisory Committee proposes amending three rules and adopting, approving, and revising 30 Judicial Council forms, effective January 1, 2023, to finalize the implementation of Assembly Bill 153. AB 153 implements part IV of the federal Family First Prevention Services Act of 2018, which requires participating states to create a process of judicial review for each placement of a foster youth in a congregate care placement. This is the second time the proposal circulated for public comment. The proposal initially circulated in spring 2021, before AB 153 was signed into law. Additional requirements created by AB 153 for

status review hearings and not addressed in the previous proposal are incorporated into this proposal.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022:

1. Amend rule 5.618 of the California Rules of Court to improve the efficiency and fairness of the procedure for juvenile courts to approve or disapprove a placement in a short-term residential therapeutic program;
2. Amend rule 5.697 of the California Rules of Court regarding the disposition hearing for a nonminor to conform the rule to requirements related to Assembly Bill 153;
3. Amend rule 5.903 of the California Rules of Court regarding the nonminor dependent status review hearing to conform the rule to requirements related to AB 153 and eliminate statutory redundancy;
4. Adopt a new Judicial Council form, *Notice of Request for Approval of Short-Term Residential Therapeutic Program or Community Treatment Facility Without a Hearing* (form JV-240), to provide notice to parties of a request to review a short-term residential therapeutic program placement without a hearing;
5. Approve a new Judicial Council form, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) to address new required findings created by AB 153; and
6. Revise 28 Judicial Council forms to conform them to requirements related to AB 153 and the court's review of a placement in a short-term residential therapeutic program and to make other revisions to improve consistency and accuracy:
 - *Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-235)
 - *Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-236)
 - *Proof of Service—Short-Term Residential Therapeutic Program or Community Treatment Facility Placement* (form JV-237)
 - *Notice of Hearing on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-238)
 - *Order on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-239)
 - *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320)
 - *Findings and Orders After Detention Hearing* (form JV-410)

- *Dispositional Attachment: Removal From Custodial Parent—Placement With Nonparent* (form JV-421)
- *Findings and Orders After Six-Month Status Review Hearing* (form JV-430)
- *Six-Month Permanency Attachment: Reunification Services Continued* (form JV-432)
- *Six-Month Permanency Attachment: Reunification Services Terminated* (form JV-433)
- *Findings and Orders After 12-Month Permanency Hearing* (form JV-435)
- *Twelve-Month Permanency Attachment: Reunification Services Continued* (form JV-437)
- *Twelve-Month Permanency Attachment: Reunification Services Terminated* (form JV-438)
- *Findings and Orders After 18-Month Permanency Hearing* (form JV-440)
- *Eighteen-Month Permanency Attachment: Reunification Services Terminated* (form JV-442)
- *Eighteen-Month Permanency Attachment: Reunification Services Continued* (form JV-443)
- *Findings and Orders After Postpermanency Hearing—Parental Rights Terminated; Permanent Plan of Adoption* (form JV-445)
- *Findings and Orders After Postpermanency Hearing—Permanent Plan Other Than Adoption* (form JV-446)
- *Findings and Orders After 24-Month Permanency Hearing* (form JV-455)
- *Twenty-Four-Month Permanency Attachment: Reunification Services Terminated* (form JV-457)
- *Dispositional Attachment: Nonminor Dependent* (form JV-461(A))
- *Findings and Orders After Nonminor Dependent Status Review Hearing* (form JV-462)
- *Initial Appearance Hearing—Juvenile Delinquency* (form JV-642)
- *Custodial and Out-of-Home Placement Disposition Attachment* (form JV-667)
- *Findings and Orders After Six-Month Prepermanency Hearing—Delinquency* (form JV-672)
- *Findings and Orders After Permanency Hearing—Delinquency* (form JV-674)
- *Findings and Orders After Postpermanency Hearing—Delinquency* (form JV-678)

The proposed new and amended rules and new and revised forms are attached at pages 19—___.

Relevant Previous Council Action

At its meeting on October 1, 2021, the Judicial Council approved a proposal implementing Assembly Bill 153 (Committee on Budget; Stats. 2021, ch. 86), with the understanding that the Family and Juvenile Law Advisory Committee would circulate the proposal in 2022. The 2021 proposal circulated for comment based on trailer bill language that had not been finalized, to ensure that rules and forms related to Assembly Bill 153 would be in place on the effective date of October 1, 2021.

Analysis/Rationale

In 2018, the federal Family First Prevention Services Act (FFPSA) was signed into law.¹ Part IV of the legislation addresses steps that participating states must take to safely reduce the inappropriate use of congregate care for children. The federal legislation requires that, for congregate care placements to be eligible for federal title IV-E funding, each placement of a foster youth in a congregate care setting must be reviewed and approved by a “family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently.”² The act requires that participating states must implement its provisions no later than October 1, 2021.

California, which relies on federal funding to fund its short-term residential therapeutic program (STRTP) placements, elected to implement the requirements of part IV of the FFPSA to ensure that these placements remain eligible for federal funding. To meet the deadline of October 1, 2021, the California Department of Finance, in early 2021, introduced budget trailer bill language that would implement part IV of the FFPSA and thus bring California into compliance with the federal requirements. The trailer bill language was amended into Assembly Bill 153,³ which was signed into law on July 16, 2021. The requirements created by AB 153 are the subject of this proposal.

In the 2021 spring rules cycle, the Family and Juvenile Law Advisory Committee took the unusual step of circulating for comment the initial version of this proposal, which was based on the trailer bill language. This action was taken to ensure that juvenile courts would not be forced to implement impactful legislation effective October 1, 2021, without rules and forms in place. The committee was aware that the trailer bill language required the Judicial Council to adopt rules of court and develop or revise forms for the implementation of several of its provisions, and that courts would be faced with a brand-new process for STRTP placements starting on October 1, 2021. AB 153 was signed into law in July of 2021, after the 2021 spring rules cycle comment period and with significant changes that had not been circulated for comment.

This proposal would conform the rules and forms to additional new requirements that were created by AB 153 and not addressed when the proposal was circulated in the 2021 rules cycle. In addition, proposed changes to the process for reviewing STRTP placements would improve efficiency and promote compliance with the requirements of AB 153 and federal legislation. As noted above, the final version of the proposal was not circulated for public comment and is therefore being circulated in this cycle to meet the requirement that each proposal circulate for public comment.

¹ Pub.L. No. 115-123 (Feb. 9, 2018) 132 Stat. 254. The FFPSA was included as a provision in the Bipartisan Budget Act of 2018, www.congress.gov/115/plaws/publ123/PLAW-115publ123.pdf.

² *Id.* at p. 259.

³ The bill is accessible at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB153.

Rules of court

The committee recommends that the Judicial Council revise rule 5.618 to improve efficiency, accuracy, and fairness of the judicial review of STRTP placements, and to ensure compliance with the requirements of AB 153 and federal legislation.

In addition, small revisions are recommended to rules 5.697 and 5.903, also related to the implementation of AB 153.

Rule 5.618

Rule 5.618 sets a procedural framework for the court's review of a STRTP placement. The committee proposes the following revisions to the rule.

Notice to parties. The list of individuals required to receive notice of the request for a hearing and for the hearing has been updated to include a nonminor dependent's guardian ad litem, the county counsel, the district attorney, the social worker or probation officer, and a nonminor dependent's legal guardian if they are receiving reunification services. In addition, a child's Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem has been added to the list for those situations described in rule 5.662 in which an attorney is not appointed for a child. A technical change was made to subdivision (b)(3) to clarify that notice be given to a child 10 years of and older consistent with noticing statutes in the Welfare and Institutions Code. And finally, a nonminor dependent's guardian ad litem, if one has been appointed consistent with Code of Civil Procedure section 372 and Probate Code sections 810–813, has also been added to the list of individuals required to receive notice (rule 5.618(b)(7)).

Submission of the report. Subdivision (d)(1) was updated to require the social worker or probation officer to “submit” the report to the court, as opposed to “file” the report with the court. This change was made to reflect the language in Welfare and Institutions Code sections 361.22(c)(1) and 727.12(c)(1).⁴

Parties who can object. The list of parties who can object to the placement has been updated to include the district attorney on the case, and the CAPTA guardian ad litem and a nonminor dependent's guardian ad litem as discussed above (rule 5.618(e)(1)). These additions are all considered parties to the case. The committee elected to give only parties the ability to object and therefore prevent the court from approving the placement without a hearing because parties are the ones who could be aggrieved by the court's decision.

Code of Civil Procedure section 1013(a). A comment was received in the spring 2021 rules cycle questioning whether the rule's timeline for an objection from a party would be subject to Code of Civil Procedure section 1013(a).⁵ The committee had to create a timeline on a very abbreviated

⁴ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

⁵ “[A]ny right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended five calendar days, upon service by mail, if the place of address and the place of mailing is within the State of California, 10 calendar

time frame to meet the requirement that the hearing be held within 45 days of the start of the placement. The committee modeled the rule after other juvenile rules that likewise deal with abbreviated timelines due to the need to quickly respond to the needs of a child. And like many other juvenile rules, an abbreviated timeline required that responses from parties be received without the benefit of the extensions of Code of Civil Procedure section 1013(a).⁶ The committee deferred how to best address Code of Civil Procedure section 1013(a) to the next rules cycle.

The last sentence of Code of Civil Procedure section 1013(a) states, “This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.” Because the statute allows for exceptions in a rule of court, the committee proposes that rule 5.618(f)(1)(C) be updated to clarify that “Code of Civil Procedure section 1013(a) does not apply to this deadline.” An advisory committee comment was also added to the rule, indicating that the reason for the exception to Code of Civil Procedure section 1013(a) is based on the exigency required by the timelines of sections 361.22 and 727.12 and the need for a prompt resolution of the youth’s placement status in an STRTP or community treatment facility.

Community Treatment Facility. Further legislation addressing the STRTP review process was signed into law on June 26, 2022, with an effective date of June 30, 2022.⁷ Assembly Bill 187 (Committee on Budget; Stats. 2022, ch. 50) added Community Treatment Facilities (CTFs)⁸ as placements that require review by the juvenile court consistent with FFPSA and sections 361.22 and 727.12. Rule 5.618 and forms related to the STRTP review process have been updated to reference CTFs as placements that require review just as do STRTP placements. The bill makes no other substantive changes to the court review process except for some minor adjustments to

days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States.” (Code Civ. Proc., § 1013(a)).

⁶ For example, for a hearing to review a child’s removal from their school of origin, rule 5.651(e)(2)(A)(i) requires that the request for a hearing by the child’s attorney be filed within two court days of receiving notice of the placement change. For a hearing to review an out-of-county placement, a parent has seven calendar days to object and request a hearing after receiving notice of the placement change. The court must hold a hearing not later than five calendar days after the objection is received and before the placement. (Welf. & Inst. Code, § 361.2(h).) A request for review of a presumptive transfer waiver determination must be made within seven court days of the petitioner’s being noticed of the placing agency’s determination on the request for waiver of presumptive transfer. A hearing can be set no later than five court days after the request for a hearing was filed. (Cal. Rules of Court, rule 5.647(b)(3) & (c)(1).)

⁷ The bill is accessible at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB187.

⁸ A community treatment facility is “any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment.” (Health & Saf. Code, § 1502(a)(8)). CTFs are licensed by the California Department of Social Services and have a mental health program certified by the Department of Health Care Services. CTFs often serve as an alternative to state hospital stays or out-of-state placement and enable children with mental health needs to receive treatment in a less restrictive setting. Approximately 60 foster youth are in CTF placements in California.

section 727.12, which have been updated in rule 5.618.⁹ The committee considered whether form names should be updated to reference a shorthand for STRTP and CTF, such as “congregate care facility.” But the committee voted to reference the full name of STRTP and CTF in the form titles because doing so was the most accurate, even though the form names would be longer.

Rules 5.903 and 5.697

These rules are proposed to be amended because the requirements for hearings that these rules address have been changed by AB 153. The committee recommends that each rule be revised to refer to the statutory requirements for these items, as opposed to creating a duplicate list of the statutes’ requirements. Doing so will ensure that the rule will not have to be updated each time the legislation changes. Those portions of the rule that are contained in the statute were removed and replaced with a reference to the applicable Welfare and Institutions Code section; however, the requirements of rule 5.903 first recommended by the Family and Juvenile Law Advisory Committee and adopted by the Judicial Council in 2011 that are not in statute will remain in the rule. A similar update was not required for rule 5.708 (General review hearing requirements) because the rule already cross-references the applicable statutes.¹⁰

Forms related to the STRTP review and status review hearings

The committee proposes that a new form be adopted and five Judicial Council forms related to the review of STRTP placements be revised. These forms address (1) the placing agency’s request for a hearing; (2) an objection from a party to the STRTP placement, or input from parties and nonparties on the STRTP placement; (3) the proof of service; (4) the order scheduling the hearing; and (5) the court’s findings and orders after the hearing. The committee recommends the forms be mandatory (with the exception of the form addressing the court’s order for hearing) to promote consistency and accuracy of the process around the state.

In addition, the committee recommends that 22 status review forms be updated to implement new requirements created under AB 153, to make other updates to ensure forms are consistent with the Welfare and Institutions Code and to ensure there is consistency between forms. One new form is also proposed to implement new requirements at status review hearings created under AB 153.

New form JV-240

One of the most important features of rule 5.618 is its fulfillment of the statutory mandate that the rule includes a process to approve a STRTP placement without a hearing.¹¹ In last year’s rules cycle, the committee paid careful attention to creating this process. A process was created

⁹ Assembly Bill 187 updated section 727.12(b)(2) to require that the probation officer serve the request for a hearing on the CASA. And 727.12(e)(3) was updated to require the court to determine if a STRTP or CTF *level of care* is consistent with the short- and long-term mental and behavioral health goals and permanency plan for the minor or nonminor dependent. Rule 5.618 and the forms have been updated with these changes, where necessary.

¹⁰ Rule 5.708 requires that reports include “[a] factual discussion of each item listed in sections 366.1 and 366.21(c),” so the updates by AB 153 are reflected by the reference to the statute.

¹¹ See §§ 361.22(h), 727.12(h).

that requires the report to be served 10 court days before the hearing, and if no party objects within 5 court days of receiving the report, the court may approve the placement and vacate the hearing date.

The rule, however, did not require that any notice be provided that a request for approval without a hearing is being made. Forms that are distributed to parties provide information that the placement could be approved if no party objects.¹² But for parties and for the court, determining when approval without a hearing is being requested may be difficult.

To make sure parties are clearly aware that a request is being made to approve the placement without a hearing, the committee is recommending the adoption of new mandatory form, *Notice of Request for Approval of Short-Term Residential Therapeutic Program or Community Treatment Facility Without a Hearing* (form JV-240), attached on page 37, and recommending that rule 5.618(f)(1)(B) be amended to require that the form be served on parties along with the report.

Modifications to STRTP review forms

In addition to several technical edits, the following modifications are proposed for the forms addressing the court's review of a STRTP placement.¹³ All changes are highlighted on the attached forms found on pages 29–36.

Placement address. The request for review (form JV-235) may not provide enough specificity as to which placement is being reviewed because it requires the name of the placement only. This could cause an issue when a STRTP is part of an agency that has multiple homes. Including the address of the STRTP in the identifying information in the form would therefore provide the level of specificity needed. If the placement is confidential under section 308, the form indicates that the information can be provided by using *Confidential Information* (form JV-287).

List of reasons for court's determination. Sections 361.22(e)(6) and 727.12(e)(6) require the court to “[m]ake a finding, either in writing or on the record, of the basis for its determinations pursuant to this subdivision.” The committee elected to include on form JV-239 a list of typical reasons for the court's determination that the court can check to meet this requirement. Item 10 on form JV-239 has been updated with a list of typical reasons for the court's determination to approve or disapprove the placement, along with the option for the court to write out the reasons for the court's determination not included on the list.

Introductory paragraph of form JV-236. The introductory paragraph was updated to provide additional clarification on the review of the placement without a hearing. A reference to proposed new form JV-240 was added, alerting parties that they will receive this notice if a

¹² The request for review (form JV-235) does provide parties notice that the placing agency will be requesting approval of the placement without a hearing in item 4. Forms JV-235 and JV-236 also provide advisements to parties that the placement could be approved without a hearing if certain conditions are met.

¹³ Forms JV-235, JV-236, JV-237, JV-238, and JV-239.

request is made to approve the placement without a hearing. A similar reference was added to the concluding paragraph of form JV-235.

Forms related to status review hearings

The following discussion addresses updates to 23 status review forms¹⁴ to implement new requirements under AB 153 and other changes to improve consistency with the Welfare and Institutions Code and among forms. Many of the forms circulated for comment a second time because they were part of the initial proposal and were updated after the initial proposal's comment period.¹⁵ Other forms were added to the proposal for the first time, and one new form was created to implement the requirements of AB 153.

AB 153 created two new sets of findings that the court will need to consider at status review hearings.¹⁶ These new subdivisions both require that “[o]n or before January 1, 2023, the Judicial Council shall amend and adopt rules of court and develop appropriate forms for the implementation of this subparagraph.”

Sexual and reproductive health services. AB 153 created a requirement at status review hearings that the court review the placing agency’s responsibility to provide sexual and reproductive health information.¹⁷ The finding is not required for every foster youth but is required “[f]or a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, or a nonminor dependent.”

Because these findings are not required for every foster youth, and because the required findings are lengthy, the committee recommends that a new form be created for use as an attachment, to be used for those hearings at which the findings are required.¹⁸ The proposed *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) is attached on page 110.

¹⁴ Forms JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678.

¹⁵ One form from the spring cycle (form JV-410) did not circulate for comment because no further updates were made to the form after the comment period, and it does not require additional AB 153 updates. This form has been updated with technical amendments consistent with issues discussed below and included in the final report to the Judicial Council, but the committee determined it does not require recirculation under rule 10.22(d)(2) because the changes are minor substantive change that are unlikely to create controversy.

¹⁶ See section 366(a)(1)(F) and (G).

¹⁷ Section 366(a)(1)(F).

¹⁸ Ten forms in this proposal will include the reference to the new form JV-459(A). Not all status review forms in this proposal require the finding because many of the forms are attachments to a form where the reference to JV-459(A) is included. And because the finding will always be required for a nonminor dependent, the full list of findings is being included on forms related to nonminor dependent status review without a reference to JV-459(A) (forms JV-461(A) and JV-462).

To indicate to the court when the attachment is required, the status review forms have the following new item added:

- For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

Education findings. AB 153 amended section 366 to require the court to consider new information and make findings related to the provisions of support for foster youth as they pursue secondary education. The following findings from section 366(a)(1)(G)(i) must be addressed by the court:

For a child who is 16 years of age or older or for a nonminor dependent, whether the social worker or probation officer has, pursuant to the requirements of paragraph (22) of subdivision (g) of Section 16501.1, identified the person or persons who shall be responsible for assisting the child or nonminor dependent with applications for postsecondary education and related financial aid, or that the child or nonminor dependent stated that they do not want to pursue postsecondary education, including career or technical education.

Because this finding is required at a status review hearing, it will need to be included in many of the forms in this proposal. The finding was added to status review forms where the finding is required. The finding as displayed on the forms requires the court to identify the name of the support person or persons who have been identified to assist the youth in pursuing postsecondary education.

Additional forms added to proposal. Incorporated in this proposal are four additional forms¹⁹ that were not part of the proposal in the 2021 spring rules cycle. These additions were required because the findings of AB 153 would be required for status review hearings for cases in reunification regardless of whether the youth was returned home or remained in foster care.²⁰ Status review forms for cases in reunification are divided into multiple attachments to address the different possible outcomes during reunification, with a parent form that includes the findings that would be required regardless of whether the youth returns home. These parent forms are included in this proposal so that the AB 153 findings can be added to them.

¹⁹ The additional forms include:

- *Findings and Orders After Six-Month Status Review Hearing* (form JV-430);
- *Findings and Orders After 12-Month Permanency Hearing* (form JV-435);
- *Findings and Orders After 18-Month Permanency Hearing* (form JV-440); and
- *Findings and Orders After 24-Month Permanency Hearing* (form JV-455).

²⁰ The STRTP review hearings that led to the initial expansion of forms in the proposal are only required to be made when the youth *remains* placed in the STRTP, implicating only those forms in which the youth remains in foster care; however, the reproductive health rights findings and education findings would be required whether the minor remains in foster care or not.

Other form revisions

In addition to the AB 153 findings mentioned above, the forms are being updated to promote consistency in several respects and with other substantive updates.

Statutory citations. All forms have been updated to make the format of statutory citations consistent. A full citation is provided in the statutory reference at the bottom of the form, for example, “Welfare and Institutions Code, §.” The rest of the form uses the abbreviated citation “Welf. & Inst. Code, §.” If a code section cited in the form is not spelled out with a full citation at the bottom of the form, then that code section is spelled out in full, for example, “Family Code section.”²¹ Juvenile forms tend to be legally complex as they are primarily used by courts to document findings and orders of court proceedings. The committee determined that abbreviated citations were appropriate because juvenile forms are already very long with frequent references to the Welfare and Institutions Code. A full citation for every statutory reference would increase the length of the forms and make forms more cumbersome for courts and parties who are represented by attorneys able to help explain the courts’ orders.

Court’s signature. The court’s signature line was updated to be consistent across the forms. The forms have all been updated to use only the “Judicial Officer” title underneath the signature line, keeping the countersignature line on the forms where that is needed (the detention forms, where a removal order by a referee requires approval by a judge of the juvenile court).²²

Gender references. Gender references have been removed consistent with the Judicial Council’s commitment to use nonbinary language in its forms. The committee determined, however, that references to “mother” and “father” are still necessary because the Welfare and Institutions Code uses these designations, which often have legal implications, and, therefore, the Legislature should address this issue first. But forms are being updated with an additional “Other” option where a list of parents is provided, to allow for the inclusion of nonbinary parents and same-sex parents.

Appearance by child. The section on the forms addressing the appearance of a child who is 10 years old or older at the hearing is being updated to reflect the requirements of section 349(d), ensuring proper notice and giving the court the option to continue the hearing to ensure the child can be present or make a finding that it is not in the best interests of the child to continue the hearing.

In addition, several substantive legal issues have been addressed in the form revisions.

Return home at postpermanency hearing. A juvenile law practitioner in 2020 noted that form JV-446 does not include an option to return the child home at a postpermanency hearing. Section 366.3 includes several provisions that indicate that return to a parent is a germane issue at a

²¹ These changes are also being made to the forms related to the STRTP review process discussed in this proposal.²²

²² See Welf. & Inst. Code, § 249.

postpermanency hearing.²³ Section 366.3(f) also indicates there is a presumption that continued care is in the best interests of the child and goes on to state that this presumption can be overcome if the parents prove by a preponderance of the evidence that further efforts at reunification are in the child's best interests.

The committee considered this issue and recommended that the form be updated to provide for these possible outcomes. Check boxes have been added for an order returning the child to the home of the parent or guardian, an order for family maintenance services if necessary, and custody orders if necessary. A check box has also been added for an order for family reunification services under section 366.3(f).

Sibling under three and termination of services at six months. Forms related to the disposition hearing and six-month reunification hearing are updated to comply with the requirements of section 361.5(a)(1)(C) when reunification services are terminated at the six-month review hearing for a sibling group that includes a child who was under the age of three at removal. According to the recent case *W.P. v. Superior Court*, section 361.5(a)(1)(C) requires that to terminate services at the six-month review, the siblings must have been removed at the same time and remain placed together.²⁴ Forms related to the disposition hearing and the six-month status review (forms JV-421 JV-432, and JV-433) were updated with this information. The changes include adding language that the sibling group was removed “at the same time” and “are placed together.”

In addition, *Six-Month Permanency Attachment: Reunification Services Continued* (form JV-432), addressing the continuation of services for this classification of youth at the six-month review, has been updated. The current version of the form requires a finding of a substantial probability of return to continue services to the 12-month review for a child under three years of age or member of a sibling group at removal. However, section 366.21(e)(3) requires that to terminate services in this situation, the court must first find by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered

²³ Section 366.3 also requires the court to consider several findings that contemplate the minor could be a candidate to return to their home, including the following required findings:

- Whether continued placement remains necessary;
- The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care; and
- The likely date by which the child may be returned to, and safely maintained in, the home (§ 366.3(e)(1), (7) & (8).)

A court must also consider all permanency planning options for the child, “including whether the child should be returned to the home of the parent” (§ 366.3(h), italics added).

²⁴ “For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services for some or all of the sibling group may be limited as set forth in subparagraph (B). ... (§ 361.5, subd. (a)(1)(C).)” (*W.P. v. Superior Court* (2018) 20 Cal.App.5th 1196, 1202, italics added.)

treatment plan.²⁵ If the parent then proves a substantial probability of return, the court must continue services. The form has been updated to reflect these requirements.

Important individuals. The findings in form JV-446, item 24, related to the identification of important individuals to the child, have been updated to reflect the requirement for this finding that a child be 10 years of age *and* in out-of-home placement for six months or longer, reflecting the statutory language of section 366.3(e)(2). The current version of the form indicates the findings are required if the child is age 10 or older. In other forms, the language that the child has been in out-of-home placement for six months was removed, because the language is not in section 366.21, 366.22, or 366.25 and would be superfluous when holding a 12-month, 18-month, or 24-month reunification review hearing.

In addition, the code requires different findings depending on the hearing and the case status. For instance, sections 366.21(g)(5)(B), 366.22(a)(3), and 366.25(a)(3) require “reasonable efforts” to maintain relationships to individuals important to the child when the court is terminating reunification services, while section 366.3(e)(2) does not require a reasonable efforts finding.²⁶ And section 366(a)(1)(B) requires the finding related to important individuals to be made in the context of the court’s reasonable efforts finding.²⁷ The important individual finding is addressed in 10 status review forms.

Division of Juvenile Justice commitment. The committee recommends that item 9 on *Custodial and Out-of-Home Placement Disposition Attachment* (form JV-667), addressing the court’s order placing the minor in the Division of Juvenile Justice (DJJ), be removed. Under Senate Bill 823 (Stats. 2020, ch. 337, §§ 23, 24),²⁸ section 607 was repealed and replaced with a new section 607, prohibiting the intake of wards into DJJ starting July 1, 2021.

²⁵ § 366.21(e)(3): “If the child was under three years of age on the date of the initial removal, or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under three years of age on the date of initial removal or is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.”

²⁶ The current version of form JV-446 already includes the requirements of section 366.3(e)(2) and does not need to be updated (see item 24). But language has been added to clarify that the findings are required if the child is 10 years of age or older.

²⁷ The court must determine “[t]he extent of the agency’s compliance with the case plan in making reasonable efforts, or, in the case of a child 16 years of age or older with another planned permanent living arrangement, the ongoing and intensive efforts, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, *including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child’s siblings who are important to the child, consistent with the child’s best interests*” (italics added).

²⁸ The bill is accessible at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB823.

Indian Child Welfare Act inquiry in wardship proceeding. The committee proposes that *Initial Appearance Hearing—Juvenile Delinquency* (form JV-642) be updated to address inquiry requirements under Indian Child Welfare Act (ICWA). The Supreme Court, in *In re W.B.*, clarified that ICWA notice is required only in circumscribed situations in a delinquency proceeding involving a youth in foster care or at risk of entering foster care, but “California law requires the court to *inquire* about a child’s Indian status at the outset of all juvenile proceedings.”²⁹ The committee therefore recommended that a similar format for ICWA inquiry contained in form JV-410 (items 9 and 10),³⁰ the detention form for dependency cases, be included on form JV-642.

Reasonable efforts to locate a missing child. The committee elected to include additional short, modified findings in status review forms for when a child is missing from placement and has not been located. Although not explicitly required in statute, the committee recommends including these modified findings to ensure that when courts make reasonable efforts findings, or determine that placement is necessary and appropriate, they take into account the child’s status as missing when doing so. Delinquency status review forms in this proposal³¹ already include this modified language, which has been on those forms since their inception in 2012. In addition, the committee also recommends similar modified findings on status review forms addressing those situations in which the youth is in custody at time of the hearing. As mentioned, these modified findings will help ensure that courts take into account the child’s status when making these important findings.

Advisement of appellate rights. The committee recommends removing an information box on appellate rights contained at the end of several forms in this proposal. The information box relates to a former subdivision (a) of rule 5.590, which did not require that parents be mailed an advisement of appellate rights if they were not present at the hearing. The boxes were added to the forms to make parents aware that they would not be advised of appellate rights if they did not appear at the hearing. Rule 5.590 was revised effective January 1, 2020, to require the mailing of the appellate advisement if the parent was not present; therefore, the information box on the forms is no longer necessary.³²

Ongoing and intensive efforts. Forms related to the termination of reunification services include a finding that ongoing and intensive efforts (O&I) were provided if the child is placed in another

²⁹ *In re W.B.* (2012) 55 Cal.4th 30, 40. As to notice, the court held, “[a] delinquency court must ensure that *notice* is given and other ICWA procedures are complied with *only* when (1) exercising “dual status” jurisdiction over an Indian child (see *post*, at pp. 46–47); (2) placing an Indian child outside the family home for committing a “status offense” (§§ 601–602; see *post*, at p. 42); or (3) placing an Indian child initially detained for “criminal conduct” (§ 602; see *post*, at pp. 42–43) outside the family home for reasons based entirely on harmful conditions in the home.” *Ibid.*

³⁰ *Findings and Orders After Detention Hearing* (form JV-410), www.courts.ca.gov/documents/jv410.pdf.

³¹ Forms JV-672, JV-674, and JV-678.

³² Forms JV-430, JV-435, and JV-440.

planned permanent living arrangement (APPLA).³³ The committee recommends that this finding be removed.

The O&I finding is required for a youth over the age of 16 and placed in an APPLA. An APPLA can be ordered at a hearing where reunification services are terminated if there is a compelling reason for not setting a section 366.26 hearing, but in these situations, those code sections addressing reunification review hearings do not require the court to make the O&I finding the same day the APPLA is ordered.³⁴ The reasonable efforts and O&I findings are backward-looking findings, meaning that the court is considering the efforts of the agency for the prior six months. A court would not be able to review O&I efforts when the permanent plan of APPLA is being ordered the same day.

Out-of-state residential facilities. One of AB 153's principal objectives was to curtail and eventually eliminate the placement of foster youth in out-of-state residential facilities (OSRFs).³⁵ Starting January 1, 2023 (the same date this proposal would become effective), AB 153 requires that all OSRFs be decertified and all foster youth be returned to California.³⁶

Family Code section 7911(d) precludes the possibility of a placement in an OSRF starting on the effective date of this proposal. The committee, therefore, recommends that forms be updated to eliminate the option of placement in an OSRF. The four delinquency forms in this proposal include findings related to OSRFs, and the committee recommends these be removed.³⁷ Keeping the findings on the forms might signal to courts that these placements would still be permissible.

Policy implications

As described above, the committee had to circulate the proposal for a second time because the final proposal in last year's rules cycle had not yet circulated for comment. Revisiting the proposal provided another opportunity to make updates to improve the process to review STRTP placements and to incorporate legal updates made by AB 153 in the numerous status review forms.

One of the issues the committee revisited was the procedure in the rule permitting a court to approve an STRTP placement without a hearing. AB 153 required the Judicial Council to create a process for approval of a placement without hearing. In creating this process, the committee was concerned with ensuring the parties have the chance for meaningful input and due process before the court vacates the hearing. To accomplish these ends, the committee created a separate

³³ Forms JV-440, JV-455, and JV-674.

³⁴ Sections 366.21, 366.22, and 366.25 do not address O&I efforts, but do require the court to list barriers to achieving the permanent plan as of the hearing date. Section 366(a) requires a finding of O&I efforts if the permanent plan is APPLA, but as discussed above, when APPLA is ordered the same day, there cannot be a review of that finding for the preceding six months the case was in reunification.

³⁵ See Assem. Bill 153, § 2.

³⁶ Fam. Code, § 7911(d).

³⁷ Forms JV-667, JV-672, JV-674, and JV-678.

timeline that would give parties sufficient time to review the report and prepare a response. The committee did not believe that seven calendar days was a sufficient amount of time for party responses, so a separate timeline was created. This approach ensures that due process for parties is provided, because they will get a day in court if there is an objection from a party. Given the challenges presented by the timelines in this process, the committee also kept in the rule the option to allow courts to create their own process in lieu of the process in the rule of court, through local rules that can reflect their own unique circumstances.

Comments

The proposal circulated for public comment from April 1 to May 13, 2022, as part of the regular spring comment cycle. Eleven organizations submitted comments. Five agreed with the proposal if modified, three agreed with the proposal as is, and three did not indicate a position. A chart with the full text of all comments received and the committee's responses is attached at pages .

Approval without a hearing when objections are received. A presiding juvenile judge commented that courts should be able to approve a placement without a hearing even if objections are received. The commenter noted that this type of approval would be in line with other decisions that judges make ex parte after receiving objections, including the approval or disapproval of psychotropic medications and section 827 petitions. The committee determined that the requirement that a hearing should be required when an objection is received to ensure that parties have the opportunity to be heard in court when there is a disagreement with the STRTP placement, given that STRTPs are the most restrictive level of placement and it is important to a foster youth, parent or legal guardian to be heard in court.

Mandatory v. Optional forms. Before the comment cycle, the committee revisited the issue of whether the forms related to the STRTP review should be mandatory or optional. A request for specific comment was made on whether these forms should be mandatory or optional. Responses were mixed, with five commenters saying the forms should be mandatory, one commenter saying the forms should be optional, and two agreeing with the recommendation of the committee of making *Order on Placement in Short-Term Residential Therapeutic Program* (form JV-239) mandatory and the rest of the forms optional. The committee elected to keep the forms mandatory to promote uniformity in STRTP review hearings and consistency in pleadings.³⁸ In addition, as a commenter noted, important information for parties is contained on some of the forms. If the forms were optional, parties would not always get the benefit of receiving this information.

Timelines. The Superior Court of San Diego County noted that having two timelines in rule 5.618 is confusing and that having one timeline would limit confusion. The comment was

³⁸ With the exception of *Notice of Hearing on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-238), which is proposed remain optional. The JV-238 is a form the court may use to notice parties of the hearing but courts may have a local process or procedure already in place and the committee elected to give court's greater flexibility in this regard.

referring to the timeline for the serving and filing of the report when approval is requested without a hearing, which requires that the report be served and filed 10 court days before the hearing, as opposed to 7 calendar days before the hearing required by sections 361.22 and 727.12.

In the last rules cycle, the committee paid close attention to creating this process. One of the important considerations of the committee was to ensure that parties have a chance to be heard, which required that parties be given sufficient time to review the report and prepare a response. After consideration of the comment, the committee elected to keep the 10-court-day timeline currently contained in the rule, requiring the report to be served 10 court days before the hearing, giving parties 5 court days to respond with an objection.

Voluntary STRTP placements. County Counsel of Sacramento County raised the issue of whether a voluntary placement of a youth in a STRTP, before the filing of a petition,³⁹ requires review under FFPSA and should therefore be addressed in the rule. The commenter noted that there is confusion in these situations, leading some social workers to file petitions to ensure that the STRTP placement is reviewed by the juvenile court. The commenter suggested that “Rule 5.618 or Rule 5.514 should require the establishment of a process, similar to Rule 5.514(b)(3) for the voluntary placement of Indian children, to assist counties in understanding how to work with courts to secure funding for voluntary placements.” The commenter suggested that the Interagency Placement Committee in each county could be responsible for the review of these placements.

FFPSA requires that “a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court” review each congregate care placement. (42 U.S.C. § 675a(c)(2).) Assembly Bill 153 did not specify a process to review STRTP placements when the court did not have jurisdiction; neither did it address the court’s appointing an administrative body for these situations.

Assembly Bill 153 did not specify a process to review STRTP placements when the court did not have jurisdiction, nor did the bill address the court appointing an administrative body for these reviews. The committee believes that an administrative body could review these placements and be compliant with the FFPSA but that this is a matter for the Legislature to address as opposed to a rule of court. The Welfare and Institutions Code has specific provisions for when administrative panels can be used,⁴⁰ but administrative review of voluntary STRTP placements is not contemplated by the code. The committee does not believe that a rule of court could create a

³⁹ See sections 301 and 16507.4(b).

⁴⁰ Section 16503 permits the juvenile court to appoint a panel to review a child’s status in foster care after the completion of a section 366.26 hearing. The term “administrative review” is defined as “a review open to the participation of the parents of a child in foster care conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.” (Welf. & Inst. Code, § 16503(b)).

process where a juvenile court, without jurisdiction, reviews placements without the Welfare and Institutions Code addressing the process.

Timeline for the filing of an objection. Rule 5.618 does not include a timeline for when an objection must be filed, but instead “Local county practice and local rules of court determine the procedures for completing, filing, and serving form JV-236, except as otherwise provided in this rule.” (Cal. Rules of Court, rule 5.618(e)(4).) A request for specific comment was made on this issue asking whether a timeline should be added to the rule. Four commenters said the rule should include a timeline, and three said that it should not. The committee elected to maintain the rule with no specified timeline for the filing of the objection because no issues had been noted with the lack of the timeline and it gave courts some flexibility in receiving objections.

Alternatives considered

The committee never considered not proceeding with the proposal because the final version of the proposal did not circulate in the initial proposal and because not all updates required by AB 153 were completed in the initial proposal. The committee considered various issues related to the proposal described above, including whether forms should be mandatory or optional and the process to approve the placement without a hearing. The committee elected to make these forms mandatory when adopted following the Spring 2021 cycle so there would be a consistent and more predictable process for courts addressing a new type of hearing. When it circulated this proposal for comment the committee elected to circulate the forms as optional, because committee members noted that mandatory forms worked initially but some committee members believed that courts would benefit from more flexibility after more experience in holding these hearings was gained. Other committee members however preferred that the forms remain mandatory because the forms made the process more predictable for courts and practitioners. After having considered the comments received, the committee elected to maintain the forms related to the STRTP review process as mandatory (with the exception of the court’s order for a hearing, form JV-238), because many courts indicated that the process benefits from mandatory forms.

Fiscal and Operational Impacts

New hearings reviewing STRTP and CTF placements will create new costs for the courts. However, this impact has more to do with the implementation part IV of the Family First Prevention Services Act and AB 153 than it does the rules and forms proposal. The proposed new and revised rules and forms will provide greater clarity and uniformity for the proceedings that courts have been holding since October 1, 2021, and it is anticipated that this clarity and uniformity will ease the fiscal and operational impacts that the courts would have faced had this proposal not been offered.

Attachments and Links

1. Cal. Rules of Court, rules 5.618, 5.697, and 5.903, at pages 20–30;
2. Forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-240, JV-320, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455,

JV-457, JV-459(A), JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678,
at pages 31–149

3. Chart of comments, at pages 150–219

DRAFT

Rules 5.618, 5.697, and 5.903 of the California Rules of Court are amended, effective January 1, 2023, to read:

1 **Rule 5.618. Placement in short-term residential therapeutic program or community**
2 **treatment facility (§§ 361.22, 727.12)**

3
4 **(a) Applicability**

5
6 This rule applies to the court’s review under section 361.22 or 727.12 following the
7 placement of a child or nonminor dependent in a short-term residential therapeutic
8 program or community treatment facility.

9
10 **(b) Service of request for hearing**

11
12 The social worker or probation officer must use *Placing Agency’s Request for*
13 *Review of Placement in Short-Term Residential Therapeutic Program or*
14 *Community Treatment Facility* (form JV-235) to request a hearing and notify the
15 following parties that a hearing is requested under section 361.22(b)(4) or
16 727.12(b)(4), and serve a copy of the form and a blank copy of *Input on Placement*
17 *in Short-Term Residential Therapeutic Program or Community Treatment Facility*
18 (form JV-236) within five calendar days of each placement of a child or nonminor
19 dependent in a short-term residential therapeutic program or community treatment
20 facility on:

- 21
- 22 (1) The child’s parents and their attorneys of record, if parental rights have not
23 been terminated, or a nonminor dependent’s parents and their attorneys of
24 record, if the parent is receiving family reunification services;
 - 25
 - 26 (2) The child’s legal guardians, if applicable, and their attorneys of record or the
27 nonminor dependent’s legal guardians and their attorneys of record, if the
28 legal guardian is receiving family reunification services;
 - 29
 - 30 (3) The attorney of record for the child or nonminor dependent, or their CAPTA
31 guardian ad litem as defined by rule 5.662, and the child, if ~~older than 10~~
32 years of age or older, or the nonminor dependent;
 - 33
 - 34 (4) The child’s or nonminor dependent’s Indian tribe and any Indian custodian,
35 in the case of an Indian child, and their attorneys of record; ~~and~~
 - 36
 - 37 (5) The district attorney, if the youth is a ward of the juvenile court;
 - 38
 - 39 ~~(5)(6) For a child or nonminor dependent under section 300 or 450 jurisdiction, The~~
40 child’s or nonminor dependent’s Court Appointed Special Advocate
41 volunteer, if applicable; and
 - 42

1 (7) A nonminor dependent’s guardian ad litem, if one has been appointed under
2 Code of Civil Procedure section 372 and Probate Code sections 810–813.

3
4 (c) **Setting the hearing**

5
6 After receiving a request for a hearing, ~~the~~ the court must set a hearing under section
7 361.22(d) or 727.12(d) after receiving a request for a hearing to be held within 45
8 days of the start of the short-term residential therapeutic program or community
9 treatment facility placement. The court must provide notice of the hearing to the
10 following:

- 11
12 (1) The child’s parents and their attorneys of record, if parental rights have not
13 been terminated, or a nonminor dependent’s parents and their attorneys of
14 record, if the parent is receiving family reunification services;
15
16 (2) The child’s legal guardians, if applicable, and their attorneys of record or a
17 nonminor dependent’s legal guardians and their attorneys of record, if the
18 legal guardian is receiving family reunification services;
19
20 (3) The attorney of record for the child or nonminor dependent, or their CAPTA
21 guardian ad litem as defined by rule 5.662, and the child if ~~older than~~ 10
22 years of age or older, or the nonminor dependent;
23
24 (4) A nonminor dependent’s guardian ad litem if one has been appointed
25 consistent with Code of Civil Procedure section 372 and Probate Code
26 sections 810–813;
27
28 ~~(4)~~(5) The child’s or nonminor dependent’s Indian tribe and any Indian custodian,
29 in the case of an Indian child, and their attorneys of record; ~~and~~
30
31 (6) The social worker or probation officer;
32
33 (7) The district attorney, if the youth is a ward of the juvenile court;
34
35 (8) The county counsel, if the youth is a dependent of the juvenile court; and
36
37 ~~(5)~~(9) The child’s or nonminor dependent’s Court Appointed Special Advocate
38 volunteer, if applicable.

39
40 (d) **Report for the hearing**

- 41
42 (1) The ~~report described in~~ social worker or probation officer must submit a
43 report to the court that includes the information required by section 361.22(c)

1 or 727.12(c) ~~must be filed with the court~~ no later than seven calendar days
2 before the hearing.

3
4 (2) The report must be served on the individuals listed in (c) of this rule no later
5 than seven calendar days before the hearing.

6
7 (3) The documentation required by section 361.22(c)(1)(A) or 727(c)(1)(A) must
8 not contain information that is privileged or confidential under existing state
9 law or federal law or regulation without the appropriate waiver or consent.

10
11 **(e) Input on placement**

12
13 (1) The following parties who object to the placement may inform the court of
14 the objection by filing *Input on Placement in Short-Term Residential*
15 *Therapeutic Program or Community Treatment Facility* (form JV-236):

16
17 (A) The child's parents and their attorneys of record, if parental rights have
18 not been terminated, or a nonminor dependent's parents and their
19 attorneys of record, if the parent is receiving family reunification
20 services;

21
22 (B) The child's legal guardians, if applicable, and their attorneys of record
23 or the nonminor dependent's legal guardians and their attorneys of
24 record, if the legal guardian is receiving family reunification services;

25
26 (C) The attorney of record for the child or nonminor dependent, or their
27 CAPTA guardian ad litem as defined by rule 5.662, and the child, if
28 older than 10 years of age or older, or the nonminor dependent; ~~and~~

29
30 (D) A nonminor dependent's guardian ad litem, if one has been appointed
31 consistent with Code of Civil Procedure section 372 and Probate Code
32 sections 810–813;

33
34 ~~(D)~~(E) The child's or nonminor dependent's Indian tribe and any Indian
35 custodian, in the case of an Indian child, and their attorneys of record;
36 and

37
38 (F) The district attorney, if the youth is a ward of the juvenile court.

39
40 (2) ~~Form JV-236 may be used to~~ The individuals listed in (1) and other
41 individuals with an interest in the child or nonminor may use form JV-236 to
42 provide input to the court on the child's or nonminor's placement in the
43 short-term residential therapeutic program or community treatment facility by

1 the individuals listed in (1) and other individuals with an interest in the child
2 or nonminor.

3
4 (3) Input from a Court Appointed Special Advocate volunteer can also be by a
5 court report under local rule.

6
7 (4) Local county practice and local rules of court determine the procedures for
8 completing, filing, and ~~noticing~~ servicing form JV-236, except as otherwise
9 provided in this rule.

10
11 **(f) Approval without a hearing**

12
13 (1) After the court receives a request for review, the court may approve the
14 placement without a hearing if the following conditions are met:

15
16 (A) The service requirements of (b) were met;

17
18 (B) No later than 5 court days before the hearing date, the placing agency
19 has filed *Proof of Service—Short-Term Residential Therapeutic*
20 *Program Placement or Community Treatment Facility* (JV-237)
21 verifying that the parties listed in (e)(1) were served, no later than 10
22 court days before the hearing date, a copy of the report described in
23 section 361.22(c) or 727.12(c) and a completed *Notice of Request for*
24 *Approval of Short-Term Residential Therapeutic Program or*
25 *Community Treatment Facility Without a Hearing* (form JV-240) ~~no~~
26 later than 10 court days before the hearing date;

27
28 (C) No party listed in (e)(1) has notified the court of their objection to the
29 placement within 5 court days of receiving the report described in
30 section 361.22(c) or 727.12(c), Code of Civil Procedure section
31 1013(a) does not apply to this deadline; and

32
33 (D) Based on the information before the court, the court intends to approve
34 the placement consistent with section 361.22(e) or 727.12(e) and (g) of
35 this rule.

36
37 (2) If the court approves the placement without a hearing, it must notify the
38 individuals in (c) of the court's decision to approve the placement and vacate
39 the hearing set under section 361.22(d)(1) or 727.12(d)(1).

40
41 (3) Nothing in this subdivision precludes the court from holding a hearing when
42 no objection to the placement is received.

43

1 (4) Notwithstanding (1)–(3), the court may approve the placement without a
2 hearing under a local rule of court if the local rule is adopted under the
3 procedures in rule 10.613 and meets the following requirements:
4

5 (A) The rule ensures that, before the hearing date, the placing agency has
6 filed form JV-237 verifying that the parties listed in (e)(1) were served,
7 no later than 10 court days before the hearing date, a copy of the report
8 described in section 361.22(c) or 727.12(c) and form JV-240 no later
9 than 10 court days before the hearing date;

10
11 (B) The rule ensures the court does not approve the placement until all the
12 parties listed in (e)(1), after receiving the report, have been given an
13 opportunity to indicate to the court their position on the placement
14 through form JV-236; and

15
16 ~~(C) The rule ensures the court's approval is consistent with section~~
17 ~~361.22(e) or 727.12(e) and (g) of this rule; and~~

18
19 ~~(D)~~(C) The rule ensures that the approval occurs no later than 60 days
20 from the start of the placement.
21

22 **(g) Conduct of the hearing**

23
24 (1) In addition to the report described in section 361.22(c) or 727.12(c), the court
25 must consider all evidence relevant to the court's determinations ~~of~~ required
26 under section 361.22(e)(2), (3) and (4) or 727.12(e)(2), (3) and (4) and
27 whether the placement in the short-term residential therapeutic program or
28 community treatment facility is consistent with the child's or nonminor
29 dependent's best interest.
30

31 (2) The court must make the ~~findings-determinations~~ in section 361.22(e)(2) and
32 (3) or 727.12(e)(2) and (3) by a preponderance of the evidence.
33

34 (3) The court must approve or disapprove the placement based on the
35 determinations required by section ~~366.22~~ 361.22(e)(2), (3) and (4) or
36 727.12(e)(2), (3) and (4) and whether it appears that the child's or nonminor
37 dependent's best interest will be promoted by the placement.
38

39 (4) If the court continues the hearing for good cause, including for an evidentiary
40 hearing, in no event may the hearing be continued beyond 60 days after the
41 start of the placement.
42

43 **Advisory Committee Comment**

1
2 The exception to Code of Civil Procedure section 1013(a) in subdivision (f)(1)(C) was created
3 because of the exigency required by the timelines of sections 361.22 and 727.12 and the need for
4 a prompt resolution of the youth's placement status in a short-term residential therapeutic
5 program or community treatment facility.
6
7

8 **Rule 5.697. Disposition hearing for a nonminor (Welf. & Inst. Code, §§ 224.1, 295,**
9 **303, 358, 358.1, 361, 361.6, 366.31, 390, 391)**

10
11 (a)–(d) * * *

12
13 (e) **Social study (§§ 358, 358.1)**

14
15 (1) The petitioner must prepare a social study of the nonminor if the court
16 proceeds to a disposition hearing. The social study must include a discussion
17 of all matters relevant to disposition and a recommendation for disposition.
18 The petitioner's social study must include the following information:

19
20 ~~(1) The petitioner's social study must include the following information:~~

21
22 (A)–(G) * * *

23
24 (H) ~~The nonminor's plans to remain under juvenile court jurisdiction,~~
25 ~~including the criteria in section 11403(b) that the nonminor meets or~~
26 ~~plans to meet. All other relevant information as required in sections 358~~
27 ~~and 358.1.~~

28
29 (I) ~~The efforts made by the social worker to help the nonminor meet the~~
30 ~~criteria in section 11403(b). The requirements of section 366.31(b).~~

31
32 (J) ~~The efforts made by the social worker to comply with the nonminor's~~
33 ~~Transitional Independent Living Case Plan, including efforts to finalize~~
34 ~~the permanent plan and prepare the nonminor for successful adulthood.~~
35 If the recommendation is to consider the findings in (h)(3)(C) at the
36 disposition hearing:

37
38 (i) the requirements of section 366.31(d), if reunification services
39 under section 361.6 are recommended, or

40
41 (ii) information addressing the required judicial determinations of
42 section 366.31(e).
43

1 ~~(K) The continuing necessity for the nonminor's placement and the facts~~
2 ~~supporting the conclusion reached.~~

3
4 ~~(L) The appropriateness of the nonminor's current foster care placement.~~

5
6 ~~(M) Progress made by the nonminor toward meeting the Transitional~~
7 ~~Independent Living Case Plan goals and the need for any modifications~~
8 ~~to assist the nonminor in attaining the goals.~~

9
10 ~~(N) Verification that the nonminor was provided with the information,~~
11 ~~documents, and services required under section 391.~~

12
13 ~~(O) For a placement made on or after October 1, 2021, the information~~
14 ~~specified in section 361.22(c), if the nonminor has been placed in a~~
15 ~~short term residential therapeutic program.~~

16
17 (2) * * *

18
19 (f)-(g) * * *

20
21 (h) **Findings and orders (§§ 358, 358.1, 361, 361.6, 390)**

22 * * *

23
24
25 (1)-(2) * * *

26
27 (3) * * *

28
29 (A)-(B) * * *

30
31 (C) The following findings and orders must be ~~considered~~made either at
32 the nonminor disposition hearing held under this rule and section
33 358(d), or at a nonminor dependent status review hearing under rule
34 5.903 and section 366.31 held within 60 days of the nonminor
35 disposition hearing:

36
37 (i) The findings and orders ~~contained in~~ required by rule
38 5.903(e)(1)(A)-(P);

39
40 ~~(ii) The orders contained in rule 5.903(e)(2)(A)(i) and (ii); and~~

41
42 ~~(iii)(ii)~~ (ii) For a nonminor dependent whose case plan is court-ordered
43 family reunification services, a determination of the following:

1
2 a.-b. * * *

3
4
5 **Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, 366.1,**
6 **366.3, 366.31, 391, 11403)**

7
8 (a)–(c) * * *

9
10 **(d) Reports**

11
12 (1) The social worker or probation officer must submit a report to the court that
13 includes ~~information regarding~~ the information required by section 366.31(b),
14 ~~(d), (f), or (h), as applicable, and section 391(e). For a nonminor dependent~~
15 ~~with a permanent plan of another planned permanent living arrangement, the~~
16 ~~report must include a factual discussion of each item listed in section~~
17 ~~366.31(e).~~ The following additional information must also be included:

18
19 (A) ~~The continuing necessity for the nonminor dependent's placement and~~
20 ~~the facts supporting the conclusion reached;~~

21
22 (B) ~~The appropriateness of the nonminor dependent's current foster care~~
23 ~~placement;~~

24
25 (C) ~~The nonminor dependent's plans to remain under juvenile court~~
26 ~~jurisdiction including the criteria in section 11403(b) that he or she~~
27 ~~meets;~~

28
29 (D) ~~The efforts made by the social worker or probation officer to help the~~
30 ~~nonminor dependent meet the criteria in section 11403(b);~~

31
32 (E) ~~Verification that the nonminor dependent was provided with the~~
33 ~~information, documents, and services as required under section 391(e);~~

34
35 (F)(A) How and when the Transitional Independent Living Case Plan
36 was developed, including the nature and the extent of the nonminor
37 dependent's participation in its development, and for the nonminor
38 dependent who has elected to have the Indian Child Welfare Act
39 continue to apply, the extent of consultation with the tribal
40 representative;

41
42 (G) ~~The efforts made by the social worker or probation officer to comply~~
43 ~~with the nonminor dependent's Transitional Independent Living Case~~

1 Plan, including efforts to finalize the permanent plan and prepare him
2 or her for independence;

3
4 ~~(H)(B)~~ Progress made toward meeting the Transitional Independent
5 Living Case Plan goals and the need for any modifications to assist the
6 nonminor dependent in attaining the goals;

7
8 ~~(I)~~ The efforts made by the social worker or probation officer to maintain
9 relationships between the nonminor dependent and individuals who are
10 important to him or her, including the efforts made to establish and
11 maintain relationships with caring and committed adults who can serve
12 as a lifelong connection;

13
14 ~~(J)~~ The efforts made by the social worker or probation officer to establish
15 or maintain the nonminor dependent's relationship with his or her
16 siblings who are under the juvenile court's jurisdiction as required in
17 section 366(a)(1)(D);

18
19 ~~(K)~~ For a nonminor dependent whose case plan is continued court ordered
20 family reunification services, the information required in section
21 366.31(d); and

22
23 ~~(L)~~ For a nonminor who has returned to the home of the parent or former
24 legal guardian, whether continued juvenile court jurisdiction is
25 necessary and the facts in support of that conclusion.

26
27 (2)-(3) ***

28
29 **(e) Findings and orders**

30
31 The court must consider the safety of the nonminor dependent, ~~and the following~~
32 ~~judicial findings and orders must be made and included~~ make the judicial findings
33 and issue the orders required by section 366.31(d), (e), or (f), and include them in
34 the written document documentation for the hearing, along with the following:

35
36 (1) *Findings*

37
38 (A) Whether notice was given as required by law;

39
40 ~~(B)~~ Whether the nonminor dependent's continuing placement is necessary;

41
42 ~~(C)~~ Whether the nonminor dependent's current placement is appropriate;

43

1 ~~(D)~~(B) Whether the Transitional Independent Living Case Plan includes
2 a plan for the nonminor dependent to satisfy one or more of the criteria
3 in section 11403(b);
4

5 ~~(E)~~(C) The specific criteria in section 11403(b) the nonminor dependent
6 satisfied since the last hearing held under this rule;
7

8 ~~(F)~~(D) The specific criteria in section 11403(b) it is anticipated the
9 nonminor dependent will satisfy during the next six months;
10

11 ~~(G)~~(E) Whether reasonable efforts were made and assistance provided
12 by the social worker or probation officer to help the nonminor
13 dependent establish and maintain compliance with section 11403(b);
14

15 ~~(H)~~ ~~Whether the nonminor dependent was provided with the information,~~
16 ~~documents, and services as required under section 391(e);~~
17

18 ~~(I)~~(F) Whether the Transitional Independent Living Case Plan was developed
19 jointly by the nonminor dependent and the social worker or probation
20 officer, reflects the living situation and services that are consistent in
21 the nonminor dependent's opinion with what he or she needs to gain
22 independence, and sets out the benchmarks that indicate how both will
23 know when independence can be achieved;
24

25 ~~(J)~~(G) For the nonminor dependent who has elected to have the Indian
26 Child Welfare Act continue to apply, whether the representative from
27 his or her tribe was consulted during the development of the
28 Transitional Independent Living Case Plan;
29

30 ~~(K)~~ ~~Whether reasonable efforts were made by the social worker or~~
31 ~~probation officer to comply with the Transitional Independent Living~~
32 ~~Case Plan, including efforts to finalize the nonminor dependent's~~
33 ~~permanent plan and prepare him or her for independence;~~
34

35 ~~(L)~~(H) Whether the Transitional Independent Living Case Plan includes
36 appropriate and meaningful independent living skill services that will
37 assist him or her with the transition from foster care to ~~independent~~
38 living successful adulthood;
39

40 ~~(M)~~(I) Whether the nonminor dependent signed and received a copy of
41 his or her Transitional Independent Living Case Plan;
42

1
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25

~~(N)~~(J) The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals and any modifications needed to assist in attaining the goals; and

~~(O)~~ Whether reasonable efforts were made by the social worker or probation officer to maintain relationships between the nonminor dependent and individuals who are important to him or her, including the efforts made to establish and maintain relationships with caring and committed adults who can serve as lifelong connections;

~~(P)~~ Whether reasonable efforts were made by the social worker or probation officer to establish or maintain the nonminor dependent's relationship with his or her siblings who are under the juvenile court's jurisdiction as required in section 366(a)(1)(D);

~~(Q)~~ For a nonminor dependent whose case plan is continued court-ordered family reunification services, the findings required in section 366.31(d); and

~~(R)~~(K) For a nonminor who has returned to the home of the parent or former legal guardian, whether continued juvenile court jurisdiction is necessary.

(2) ***

Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility

Clerk stamps date here when form is filed.

DRAFT
Not approved by the Judicial Council
JV-235.v18.081522.cz

1 Agency requesting review:
Name and title of person filing the form:
Address:
Phone:

Fill in court name and street address:

Superior Court of California, County of

2 The child or nonminor dependent was placed at the following short-term residential therapeutic program or community treatment facility:

The placement is confidential; the name and address of the placement are submitted separately on form JV-287.

Fill in child's/nonminor's name and date of birth:

Name:
Address:
on (date):

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

3 The agency listed in 1 requests that the court set a hearing under Welf. & Inst. Code, § 361.22 or § 727.12 to review the placement of the child or nonminor dependent in the short-term residential therapeutic program or community treatment facility.

Court fills in case number when form is filed.

Case Number:

- To:
Parent or guardian;
Child or nonminor dependent; and
Child's Indian tribe or Indian custodian, in the case of an Indian child

There will be a court hearing scheduled within 45 days of the date listed in item 2 to review the placement of the child in the facility mentioned above. The court will let you know when the hearing will be. You will have the option to attend the hearing if you choose. Before the hearing, you will receive a report from the social worker or probation officer that will explain why the placement was made and how it serves the needs of the child or nonminor dependent.

If you do not agree with the placement and want to let the judge know you don't agree, work with your lawyer if you have one, about how to let the judge know that you do not agree. To inform the judge of your disagreement with the placement before the hearing, you must use form JV-236, Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility. You must do so quickly because you only have five court days after you receive the report to file the form. The court might cancel the hearing and approve the placement if no one objects to the placement.

Date:



Type or print your name

Sign your name

Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-236.v19.081522.cz

Instructions:

Use this form if you do not agree with the placement of a child or nonminor dependent in a short-term residential therapeutic program or a community treatment facility. If the agency is asking for the court to approve the placement without a hearing, you must file this form within five court days of receiving the report for the hearing. The court may approve the placement and cancel the hearing if you do not file this form with your objection to the placement within five court days of receiving the report. If you have a lawyer, talk to your lawyer right away. You can also use this form, if you want to give any input about the placement.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

Court fills in case number when form is filed.

Case Number:

1 My contact information (if confidential, use form JV-287):

- a. Name:
b. Address:
c. City/State/Zip:
d. Phone:
e. Email:

2 Your relationship to the child or nonminor dependent:

- a. I am the child or nonminor dependent in this case
b. Parent or legal guardian
c. Indian custodian
d. Lawyer for parent, legal guardian, or Indian custodian
e. Lawyer for child or nonminor dependent
f. Representative of Indian tribe
g. The district attorney, if the youth is a ward of the juvenile court
h. Other (give relationship):

3 If you know when the child or nonminor dependent was placed in the program or facility give the (date):

4 Did you receive a copy of a report from the social worker or probation officer explaining the reasons for placement?

- Yes (date you received report):
No

5 Why are you completing this form? (check one):

- I do not agree to the placement
I want to provide my input on the placement



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-237.v13.081622.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S/NONMINOR'S NAME: CHILD'S/NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:	
Proof of Service—Short-Term Residential Therapeutic Program or Community Treatment Facility Placement	CASE NUMBER:

I served a copy of

- Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV- 235) AND a blank copy of *Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-236), AND/OR
- the report as described in *Welf. & Inst. Code, § 361.22(c)* or *§ 727.12(c)* for a hearing on (date): , AND/OR
- Notice of Request for Approval of Short-Term Residential Therapeutic Program or Community Treatment Facility Without a Hearing* (form JV-240), if requesting approval of the placement without a hearing

on the following persons or entities by

- personally delivering a copy to the person served, OR
- by delivering a copy to a competent adult at the usual place of residence or business of the person served and thereafter mailing a copy by first-class mail to the person served at the place where the copy was delivered, OR
- by placing a copy in a sealed envelope and depositing the envelope directly in the U.S. mail with postage prepaid, or at my place of business for same-day collection or mailing with the U.S. mail following our ordinary business practices with which I am readily familiar, OR
- by delivering a copy by electronic means at the electronic service address indicated below (*electronic service must comply with Welf. & Inst. Code, § 212.5*):

1. a. The child (*if 10 years of age or older*) or the nonminor dependent

- (1) Name:
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

1. b. Attorney or Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem

- (1) Name
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

2. a. Parent/Legal Guardian

- (1) Name:
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

2. b. Attorney

- (1) Name
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

3. a. Parent/Legal Guardian

- (1) Name:
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

3. b. Attorney

- (1) Name
- (2) Mailing, in-person, or electronic service address:
- (3) Date of service:
- (4) Method of service:

CHILD'S/NONMINOR'S NAME:	CASE NUMBER:
--------------------------	--------------

4. a. The child's or nonminor dependent's Indian tribe
 (1) Name:
 (2) Mailing, in-person, or electronic service address:
 (3) Date of service:
 (4) Method of service:

4. b. Attorney
 (1) Name
 (2) Mailing, in-person, or electronic service address:
 (3) Date of service:
 (4) Method of service:

5. a. Indian custodian
 (1) Name:
 (2) Mailing, in-person, or electronic service address:
 (3) Date of service:
 (4) Method of service:

5. b. Attorney
 (1) Name
 (2) Mailing, in-person, or electronic service address:
 (3) Date of service:
 (4) Method of service:

6. CASA volunteer
 a. Name:
 b. Mailing, in-person, or electronic service address:
 c. Date of service:
 d. Method of service:

7. Other (specify):
 a. Name:
 b. Mailing, in-person, or electronic service address:
 c. Date of service:
 d. Method of service:

8. Other (specify):
 a. Name:
 b. Mailing, in-person, or electronic service address:
 c. Date of service:
 d. Method of service:

9. Other (specify):
 a. Name:
 b. Mailing, in-person, or electronic service address:
 c. Date of service:
 d. Method of service:

10. At the time of service I was at least 18 years of age. If service was made in person, by mail, or electronic service, I am not a party to this matter. I am a resident of or employed in the county where the service occurred. My residence or business mailing address, or my electronic service address, is (specify address):

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

Date: _____

Type or print your name



Sign your name

Notice of Hearing on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility

Clerk stamps date here when form is filed.

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- 1 The court received the request for review as defined in Welf. & Inst. Code, § 361.22(b) or § 727.12(b), filed on (date): _____
- 2 Notice requirements were met. The request for hearing and *Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-236) have been served, consistent with Welf. & Inst. Code, § 361.22(b)(2) or § 727.12(b)(2) and rule 5.618(b) of the California Rules of Court.
- Notice requirements were not met. The social worker or probation officer is ordered to serve the request for hearing and *Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-236) as required in Welf. & Inst. Code, § 361.22(b)(2) or § 727.12(b)(2) and rule 5.618(b) of the California Rules of Court.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's/nonminor's name and date of birth:

Child's/nonminor's name:

Date of birth:

Court fills in case number when form is filed.

Case Number:

3 Notice of Hearing

The court will hold a hearing on the request for review of the child or nonminor's placement in the short-term residential therapeutic program or community treatment facility. (The hearing must be set or be held at a regularly scheduled hearing within 45 days of the start of the placement.)

		Name and address of court:
Hearing Date	→Date: _____	_____
	Time: _____	_____
	Dept.: _____	Room: _____
	_____	_____

Date: _____

Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-239.v22.081322.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S/NONMINOR'S NAME: CHILD'S/NONMINOR'S DATE OF BIRTH:	
Order on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility	CASE NUMBER:

1. a. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 b. Judicial officer: _____
 c. Parties and attorneys present: _____

2. The court reviews the placement without a hearing. The requirements in rule 5.618(f)(1) of the California Rules of Court have been met.
 The court reviews the placement without a hearing after the conditions required by local rule (specify local rule number): _____ created under rule 5.618(f)(4) of the California Rules of Court have been met.

3. The court has read and considered the following:
 - a. The report described in Welf. & Inst. Code, § 361.22(c) or § 727.12(c) filed on (date): _____
 - b. Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility (form JV-236) filed by: _____ on (date): _____
 - c. Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility (form JV-236) filed by: _____ on (date): _____
 - d. CASA report dated: _____
 - e. Other: _____

 - f. Other: _____

THE COURT FINDS AND ORDERS

4. a. Notice requirements were met. The following items were served within the time prescribed by law:
 - (1) Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility (form JV-235);
 - (2) Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility (form JV-236);
 - (3) the report as described in Welf. & Inst. Code, § 361.22(c) or § 727.12(c); and
 - (4) Notice of Request for Approval of Short-Term Residential Therapeutic Program or Community Treatment Facility Without a Hearing (form JV-240), if approval of the placement without a hearing is being requested.

- b. Notice requirements were not met. The following items were not served within the time prescribed by law:

CHILD'S/NONMINOR'S NAME:	CASE NUMBER:
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5. The court on its own motion finds that a continuance is not contrary to the interest of the child or nonminor, and good cause exists for the continuance as stated below (hearing must be concluded no later than 60 days after the start of the placement):

6. The needs of the child or nonminor dependent
 - a. can be met through placement in a family-based setting.
 - b. cannot be met through placement in a family-based setting. The placement in a short-term residential therapeutic program or community treatment facility, as applicable, does does not provide the most effective and appropriate care setting for the child or nonminor dependent in the least restrictive environment.
7. A short-term residential therapeutic program or community treatment facility level of care, as applicable, is is not consistent with the short- and long-term mental and behavioral health goals and permanency plan for the child or nonminor dependent.
8. In the case of an Indian child, there is is not clear and convincing evidence of good cause to depart from the placement preferences stated in Welf. & Inst. Code, § 361.31.
9. The short-term residential therapeutic program or community treatment facility identified in the *Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility* (form JV-235) filed on (date): , is
 - approved.
 - disapproved. The social worker or probation officer is ordered to transition the child or nonminor dependent to a placement setting that is consistent with the determinations in items 6, 7, and 8 within 30 days.
10. The basis for the court's determination in item 9 has been stated on the record or is stated in writing here:
 - a. The court's determination in item 9 is based on the findings in items 6, 7, and 8.
 - b. The placement does does not promote the child's or nonminor dependent's best interests.
 - c. The child or nonminor dependent's needs can be met in a placement in a lower level of care.
 - d. Another placement in a lower level of care is available and willing to accept the child or nonminor dependent.
 - e. Other:

11. Other orders:

12. Next hearing date: _____ Time: _____ Dept.: _____ Room: _____
 Date: _____

Judicial Officer

Notice of Request for Approval of Short-Term Residential Therapeutic Program or Community Treatment Facility Without a Hearing

Clerk stamps date here when form is filed.

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Important: The agency listed in ① has asked the judge to approve a placement for a child or nonminor dependent. If you do not agree to the placement listed in ②, you must file form JV-236, *Input on Placement in Short-Term Residential Therapeutic Program or Community Treatment Facility*. If you have a lawyer, talk to your lawyer right away if you do not agree with the placement.

Fill in court name and street address:

Superior Court of California, County of

- ① Agency requesting review: _____
 Name of person filing the form: _____
 Title of person filing the form: _____
 Address: _____
 Phone: _____

Fill in child's/nonminor's name and date of birth:

Child's/Nonminor's name:

Child's/Nonminor's date of birth:

② **Placement of child or nonminor dependent**

- a. Name of placement: _____
 b. This is a (*check one*):
 short-term residential therapeutic program.
 community treatment facility.
 c. Date of placement: _____

Court fills in case number when form is filed.

Case Number:

- ③ This notice is for (*check all that apply*):
 short-term residential therapeutic program.
 community treatment facility.

The agency listed in ① has asked the judge to approve the placement without a court hearing. If you do not agree to the placement listed in ②, you must file form JV-236. If you do not file form JV-236, the court hearing currently scheduled for (*date of court hearing*): _____ may be canceled.

④ **Signature of agency representative**

Date: _____

Name of agency representative

Signature of your agency representative

CHILD'S NAME:	CASE NUMBER:
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6. The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.
7. The court previously made a finding denying or terminating reunification services, under **Welf. & Inst. Code, §§ 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3**, for
- parent (name):
- parent (name):
- parent (name):**
8. a. The court finds, by clear and convincing evidence, that it is likely the child will be adopted.
- b. The child is an Indian child or there is reason to know that the child is an Indian child, and
- (1) the court has heard and considered all relevant, admissible evidence, including
- (A) qualified expert witness testimony provided by (name of witnesses) _____ and
- (B) evidence regarding the prevailing social and cultural practices of the child's tribe; and
- (2) the court finds beyond a reasonable doubt that continued physical custody by the mother father
- Indian custodian **Other (name and relationship to child):**
- Other (name and relationship to child):**
- is likely to result in serious emotional or physical damage to the child.
9. The parental rights of
- a. parent (name):
- b. parent (name):
- c. **parent (name):**
- d. alleged fathers (names):
- e. unknown mother all unknown fathers
- are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.
- f. **The adoption is likely to be finalized by (date):**
(If item 9 is completed, skip items 10–16 and go directly to item 17.)
10. This case involves an Indian child. The parental rights of
- a. parent (name):
- b. parent (name):
- c. **parent (name):**
- d. Indian custodians (names):
- e. alleged fathers (names):
- f. unknown mother all unknown fathers
- are modified in accordance with the tribal customary adoption order of the (specify): _____ tribe, dated _____ and comprising _____ pages, which is accorded full faith and credit and fully incorporated herein. The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary adoptive placement in accordance with the tribal customary adoption order.
- (If item 10 is completed, skip items 11–16 and go directly to item 17.)*
11. The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of giving the child a stable and permanent home through legal guardianship. Removal of the child from the custody of this relative would be detrimental to the child's emotional well-being. *(If item 11 is checked, skip items 12–14 and go directly to item 15 (guardianship).)*
12. Termination of parental rights would be detrimental to the child for the following reasons: *(If item 12 is checked, check the applicable reasons below, skip items 13–14, and go directly to item 15 (guardianship) or 16 (continued foster care).)*
- a. The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.
- b. The child is 12 years of age or older and objects to termination of parental rights.

CHILD'S NAME:	CASE NUMBER:
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12. c. The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- d. The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child.

NOTE: Do not check item 12d if the child is either:

- (1) under the age of 6; or
- (2) a member of a sibling group, at least one member of which is under the age of 6, that is or should be placed together.

- e. There would be substantial interference with the child's sibling relationship.
- f. The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to the following:
- (1) Termination of parental rights would substantially interfere with the child's connection to the tribal community or the child's tribal membership rights.
 - (2) The child's tribe has identified guardianship or another permanent plan for the child.

13. Termination of parental rights would not be detrimental to the child, but the child is difficult to place for adoption and there is no identified or available prospective adoptive parent for the child because the child (*check the applicable reason or reasons below and complete item 14*)

- a. is a member of a sibling group that should stay together.
- b. has a diagnosed medical, physical, or mental disability.
- c. is 7 years of age or older.

14. a. Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by (*date, not to exceed 180 days from the date of this order*):

(Do not check item 14a for a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c, as appropriate, skip items 15 and 16, and go directly to item 17.)

b. Visitation between the child and

- (1) parent (*name*):
- (2) parent (*name*):
- (3) legal guardian (*name*):
- (4) Other (*name*):

is scheduled as follows (*specify*):

c. Visitation between the child and (*names*):
is detrimental to the child's physical or emotional well-being and is terminated.

15. The child's permanent plan is legal guardianship.

(*Name*):

is appointed guardian of the child's person and estate. The clerk is ordered to issue *Letters of Guardianship* once the appointed guardian has signed the required oath or affirmation. This appointment is not effective until **the Letters** have issued.

(Do not check item 15 for a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b, as appropriate, complete item 15c or 15d, then skip item 16 and go directly to item 17.)

a. Visitation between the child and

- (1) parent (*name*):
- (2) parent (*name*):
- (3) legal guardian (*name*):
- (4) Other (*name*):

is scheduled as follows (*specify*):

CHILD'S NAME:	CASE NUMBER:
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15. b. Visitation between the child and (names):
is detrimental to the child's physical or emotional well-being and is terminated.

c. Dependency Wardship jurisdiction is terminated.

(If the child is a dependent and the appointed guardian is a relative or nonrelative extended family member whose home has been approved as a resource family home for at least six months, the court must terminate dependency unless the guardian objects or the court makes a finding of exceptional circumstances.)

The juvenile court retains jurisdiction over the guardianship under Welf. & Inst. Code, § 366.4 or § 728(f).

d. Dependency Wardship jurisdiction is not terminated. Dependency or wardship jurisdiction is likely to be terminated by (date): _____.

16. The child's permanent plan is permanent placement with (name): _____, a fit and willing relative, subject to the periodic review of the juvenile court under Welf. & Inst. Code, § 366.3. The likely date by which the child's permanent plan will be achieved is (specify date): _____

(if item 16 is checked, provide for visitation in item 18, as appropriate, and go to item 19.)

17. The child remains placed in foster care with (name of placement): _____

a. With a permanent plan of

- (1) returning home;
- (2) adoption;
- (3) tribal customary adoption;
- (4) legal guardianship; or
- (5) placement with a fit and willing relative.

b. The child is 16 years of age or older and no other permanent plan is appropriate at this time. The child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
 return home. establish a legal guardianship.
 place for adoption. place with a fit and willing relative.
 Other (specify): _____

c. The barriers to achieving the permanent plan in items 17a and 17b are: _____

d. The child, if 10 years of age or older, has identified the following individuals, other than the child's siblings, who are important to the child (specify): _____

e. The child's permanent plan is likely to be achieved by (date): _____

(if item 17 is checked, provide for visitation in item 18, as appropriate, and go to item 19.)

18. The child is permanently placed with a relative or remains placed in foster care (if item 16 or 17 is checked):

a. Visitation between the child and

- (1) parent (name): _____
- (2) parent (name): _____
- (3) legal guardian (name): _____
- (4) Other (name): _____

is scheduled as follows (specify): _____

CHILD'S NAME:	CASE NUMBER:
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- 18. b. Visitation between the child and *(names)*:
is detrimental to the child's physical or emotional well-being and is terminated.

- 19. The child is an Indian child. The court finds that the child's permanent plan complies with the placement preferences because
 - a. the permanent plan is not adoption, and *(choose one)*
 - (1) the child is placed with a member of the child's extended family, as defined by Welf. & Inst. Code, § 224.1(c); or
 - (2) a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - (3) a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - (4) a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - (5) the child is placed in accordance with the preferences established by the tribe; or
 - (6) the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
 - b. the permanent plan is adoption, and *(choose one)*
 - (1) the child is placed with a member of the child's extended family; or
 - (2) a diligent search was made for a placement with a member of the child's extended family, those efforts are documented in detail in the record, and the child is placed with other members of the child's tribe; or
 - (3) an diligent search was made for a placement with a member of the child's extended family or other member of the child's tribe, those efforts are documented in detail in the record, and the child is placed with another Indian family; or
 - (4) the child is placed in accordance with the preferences established by the tribe; or
 - (5) the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

- 20. The child's placement is necessary.

- 21. The child's placement is appropriate.

- 22. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.

- 23. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

- 24. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.

- 25. The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan.

- 26. The child is an Indian child, and active efforts, as detailed in the record, were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. If active efforts were made, those efforts have proved successful unsuccessful.

CHILD'S NAME:	CASE NUMBER:
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27. The child is 14 years of age or older and

- a. the services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. the services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. to assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

28. The child remains a dependent ward of the court. (Do NOT check this item if item 15c is checked.)

29. All prior orders not in conflict with this order remain in full force and effect.

30. Other (specify):

31. Next hearing date: _____ Time: _____ Dept.: _____ Room: _____
- a. Continued hearing under Welf. & Inst. Code, § 366.26 for receipt of report on attempts to locate an appropriate adoptive family
 - b. Continued hearing under Welf. & Inst. Code, § 366.24(c)(6) for receipt of the tribal customary adoption order
 - c. Six-month postpermanency review
 - d. Other (specify):

32. The
- a. Parent (name):
 - b. Parent (name):
 - c. Parent (name):
 - d. Indian custodian (name):
 - e. Child
 - f. Other (name):
 - g. Other (name):
- have been advised of their appeal rights under California Rules of Court, rule 5.590.

Date: _____

Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-410.v4.081322.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER DETENTION HEARING (Welf. & Inst. Code, § 319)	CASE NUMBER:

1. This matter came before the court on the
 original petition subsequent petition supplemental petition other (specify):
 filed on (date):

2. Detention hearing

- | | |
|---|--|
| a. Date:
b. Department:
c. Judicial officer (name):
d. Court clerk (name): | e. Court reporter (name):
f. Bailiff (name):
g. Interpreter (name and language): |
|---|--|

h. Party (name):	Present	Attorney (name):	Present	Appointed today
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
- (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

3. The court has read and considered and admits the following into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Other (specify):
- d. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

4. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For a child 10 years of age or older who is not present**
- (1) The child was properly notified under **Welf. & Inst. Code, § 349(d)** of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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4. b. (2) The child was not properly notified under **Welf. & Inst. Code, § 349(d)** of the right to attend the hearing or the child wished to be present and was not given an opportunity to be present and
- (a) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child to enable the child to be present.
- (b) it is in the best interest of the child not to continue the hearing.
5. The attorney appointed to represent the child as the child's attorney of record is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
6. a. The child will not benefit from representation by an attorney and, for the reasons stated on the record, the court finds
- (1) the child understands the nature of the proceedings;
- (2) the child is able to communicate and advocate effectively with the court, other counsel, other parties, including social workers, and other professionals involved in the case; and
- (3) under the circumstances of the case, the child would not gain any benefit from being represented by counsel.
- b. A Court Appointed Special Advocate is appointed for the child, and that person is also appointed as the child's Child Abuse Prevention and Treatment Act guardian ad litem.
7. A Court Appointed Special Advocate is appointed for the child.
8. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by **Welf. & Inst. Code, § 316.2** to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):
9. **ICWA Inquiry**
- On the record, the court has
- a. asked each participant present at the hearing
- whether the participant is aware of any information indicating that the child is a member or citizen or eligible for membership or citizenship in an Indian tribe or Alaska Native village and if yes, the name of the tribe or village;
 - whether the residence or domicile of the child, either of the child's parents, or Indian custodian is on a reservation or in an Alaska Native village and if yes, the name of the tribe or village;
 - whether the child is or was ever a ward of a tribal court, and if yes, the name of the tribe or village; and
 - if the child, either of the child's parents, or the child's Indian custodian possesses an identification card indicating membership or citizenship in a tribe or Alaska Native village, and if so, the name of the tribe or village.
- b. instructed the participants to inform the court if they receive any information indicating that the child is a member or citizen or eligible for membership or citizenship in a tribe or Alaska Native village.
10. **ICWA Status**
- a. The court finds there is no reason to believe or reason to know the child is an Indian child and ICWA does not apply; or
- b. The court finds there is reason to believe the child is an Indian child; and
- (1) the agency has completed further inquiry as required by **Welf. & Inst. Code, § 224.2(e)**, and there is no reason to know that the child is an Indian child. ICWA does not apply; or
- (2) the agency is ordered to complete further inquiry as required by **Welf. & Inst. Code, § 224.2(e)** and file with the court evidence of this inquiry, including all contacts with extended family members, tribes that the child may be affiliated with, the Bureau of Indian Affairs, the California Department of Social Services, and/or others.
- c. The court finds that there is reason to know that the child is an Indian child, and
- (1) the agency has presented evidence in the record that it has exercised due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status; or

CHILD'S NAME:	CASE NUMBER:
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10. c. (2) the agency is required to exercise due diligence to identify and work with all of the tribes where the child may be a member or eligible for membership to verify the child's status and provide notice in accordance with **Welf. & Inst. Code, § 224.3** and file proof of due diligence and notice with the court; and
- (3) notice has been provided as required by law; and
- (4) the court will treat the child as an Indian child until it is determined on the record that the child is not an Indian child.
- d. The court finds that the child is an Indian child and a member of the _____ tribe.

11. ICWA Jurisdiction

- a. It is known or there is reason to know that the child is an Indian child. The court finds (*select one*)
- (1) that it has jurisdiction over the proceeding because
- (a) the court finds that the residence and domicile of the child are not on a reservation where the tribe exercises exclusive jurisdiction; and
- (b) the court finds that the child is not already under the jurisdiction of a tribal court; or
- (2) the court finds that it does not have jurisdiction because the child is under the exclusive jurisdiction of the tribal court; or
- (3) the court finds that the child is under the exclusive jurisdiction of the tribal court, but that there is a basis for emergency jurisdiction in accordance with section 1922 of title **25 of the United States Code.**

Advisements and waivers

12. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (specify):**
- Other (specify):**

of the following:

- a. **The right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.**
- b. **The right to be informed by the court of the following:**
- **The contents of the petition;**
 - **The nature of and possible consequences of juvenile court proceedings;**
 - **The reasons for the initial detention and the purpose and scope of the detention hearing if the child is detained;**
 - **The right to have a child who is detained immediately returned to the home of the parent, legal guardian, or Indian custodian if the petition is not sustained;**
 - **That if the petition is sustained and the child is removed from the care of the parent, legal guardian, or Indian custodian, the time for services will commence on the date the petition is sustained or 60 days from the date of the initial removal, whichever is earlier;**
 - **That the time for services will not exceed 12 months for a child aged three years or over at the time of the initial removal; and**
 - **That the time for services will not exceed 6 months for a child under the age of three years at the time of the initial removal or for the member of a sibling group that includes such a child if the parent, legal guardian, or Indian custodian fails to participate regularly and make substantive progress in any court-ordered treatment program.**
- c. The right to a hearing by the court on the issues presented by the petition.
- d. The right to assert the privilege against self-incrimination; to confront and cross-examine the persons who prepared reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian, or Indian custodian; to subpoena witnesses; and to present evidence on **their** own behalf.

13. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (specify):**
- Other (specify):**

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on one's own behalf.

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14. **CHILD NOT DETAINED**

- a. Services that would prevent the need for further detention, including those set forth in item 17, are available.
- b. The child is returned to the custody of

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> legal guardian	<input type="checkbox"/> Other (specify):
<input type="checkbox"/> presumed father	<input type="checkbox"/> alleged father	<input type="checkbox"/> Indian custodian	<input type="checkbox"/> Other (specify):

15. **CHILD DETAINED**

- a. Services that would prevent the need for further detention are not available.
- b. A prima facie showing has been made that the child comes within Welf. & Inst. Code, § 300.
- c. Continuance in the parent's or legal guardian's home is contrary to the child's welfare AND (select at least one)
 - (1) there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the physical custody of the parent or legal guardian.
 - (2) there is substantial evidence that a parent, legal guardian, or custodian of the child is likely to flee the jurisdiction of the court, and in the case of an Indian child, fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.
 - (3) the child has left a placement in which they were placed by the juvenile court.
 - (4) the child has been physically abused by a person residing in the home and is unwilling to return home.
 - (5) the child has been sexually abused by a person residing in the home and is unwilling to return home.
- d. The child is detained, and temporary placement and care of the child is vested with the county child and family services agency pending the hearing under Welf. & Inst. Code, § 355 or further order of the court.
- e. The initial removal of the child from the home was necessary for the reasons stated on the record.
- f. The facts on which the court bases its decision to order the child detained are stated on the record.
- g. The child is placed in
 - (1) the approved home of a relative.
 - (2) an emergency shelter.
 - (3) other suitable licensed place.
 - (4) a place exempt from licensure designated by the juvenile court.
 - (5) the approved home of a nonrelative extended family member as defined in Welf. & Inst. Code, § 362.7.
 - (6) a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 361.22 is set for (date):
- h. Services, including those set forth in item 17, are to be provided to the family as soon as possible to reunify the child with their family.
- i. Reasonable efforts were made to prevent or eliminate the need for removal from the home.
- j. Reasonable efforts were not made to prevent or eliminate the need for removal from the home.
- k. There is a relative who is able, approved, and willing to care for the child.
- l. A relative who is able, approved, and willing to care for the child is not available. This is a temporary finding and does not preclude later placement with a relative under Welf. & Inst. Code, § 361.3.

16. **CHILD DETAINED AND THERE IS REASON TO KNOW CHILD IS AN INDIAN CHILD**

- a. The evidence includes all of the requirements of Welf. & Inst. Code, § 319(b).

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16. b. As detailed in the record, the agency has made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and these efforts have proved successful or unsuccessful;
- the agency has not made active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; the agency is ordered to initiate or continue active efforts.
- c. For the reasons stated on the record, detention is necessary to prevent imminent physical damage or harm to the child.
- d. The child's placement complies with the placement preferences set forth in **Welf. & Inst. Code, § 361.31**. The child is placed
- with a member of the child's extended family;
 - in a foster home licensed, approved, or specified by the child's tribe;
 - in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.
- OR
- for the reasons stated on the record, the court finds by clear and convincing evidence that there is good cause not to follow the placement preferences.

17. The services below will be provided pending further proceedings:

Service	Mother	Presumed father	Biological father	Legal guardian	Indian custodian	Other (specify):
a. <input type="checkbox"/> Alcohol and drug testing	<input type="checkbox"/>					
b. <input type="checkbox"/> Substance abuse treatment	<input type="checkbox"/>					
c. <input type="checkbox"/> Parenting education	<input type="checkbox"/>					
d. <input type="checkbox"/> (Specify):	<input type="checkbox"/>					
e. <input type="checkbox"/> (Specify):	<input type="checkbox"/>					
f. <input type="checkbox"/> (Specify):	<input type="checkbox"/>					

18. **Contact with the child is ordered as stated in** (check appropriate boxes and attach indicated forms)
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).

19. The mother biological father legal guardian
 presumed father alleged father Indian custodian
 Other (specify):
 Other (specify):

must disclose to the county agency social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child.

20. The mother biological father legal guardian
 presumed father alleged father Indian custodian
 Other (specify):
 Other (specify):

must complete *Your Child's Health and Education* (form JV-225) or provide the necessary information for the county agency social worker to complete the form.

21. There is reason to know the child is an Indian child, and the county agency must provide notice under **Welf. & Inst. Code, § 224.3** for any hearings that may result in the removal or foster care placement of the child, termination of parental rights, preadoptive placement, or adoptive placement. Proof of such notice must be filed with this court.

22. **Other findings and orders**
- a. See attached.
 - b. (Specify):

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23. The parents, legal guardians, and Indian custodians must keep the court, the agency, and their attorneys advised of their current addresses and telephone numbers and provide written notification of any changes to their mailing addresses. The parents, legal guardians, and Indian custodians present during the hearing who had not previously submitted a *Notification of Mailing Address* (form JV-140) or its equivalent were provided with and ordered to complete the form or its equivalent and to submit it to the court before leaving the courthouse today.

24. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. Jurisdictional hearing
- b. Dispositional hearing
- c. Settlement conference
- d. Mediation
- e. Other (*specify*):

25. **All prior orders not in conflict with this order remain in full force and effect.**

26. Number of pages attached: _____

Date: _____

Judicial Officer

Countersignature for detention orders (*if necessary*):

Date: _____

Judge

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**DISPOSITIONAL ATTACHMENT:
REMOVAL FROM CUSTODIAL PARENT—PLACEMENT WITH NONPARENT
(Welf. & Inst. Code, §§ 361, 361.2)**

1. The child is a person described by **Welf. & Inst. Code, § 300** (check all that apply)
- | | | | | |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| <input type="checkbox"/> 300(a) | <input type="checkbox"/> 300(c) | <input type="checkbox"/> 300(e) | <input type="checkbox"/> 300(g) | <input type="checkbox"/> 300(i) |
| <input type="checkbox"/> 300(b) | <input type="checkbox"/> 300(d) | <input type="checkbox"/> 300(f) | <input type="checkbox"/> 300(h) | <input type="checkbox"/> 300(j) |
- and is adjudged a dependent of the court.**

Circumstances justifying removal from custodial parent

2. There is clear and convincing evidence of the circumstances stated in **Welf. & Inst. Code, § 361** regarding the persons specified below (check all that apply):
- | | 361(c)(1) | 361(c)(2) | 361(c)(3) | 361(c)(4) | 361(c)(5) |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. <input type="checkbox"/> Mother | <input type="checkbox"/> |
| b. <input type="checkbox"/> Presumed father | <input type="checkbox"/> |
| c. <input type="checkbox"/> Biological father | <input type="checkbox"/> |
| d. <input type="checkbox"/> Legal guardian | <input type="checkbox"/> |
| e. <input type="checkbox"/> Indian custodian | <input type="checkbox"/> |
| f. <input type="checkbox"/> Other (specify): | <input type="checkbox"/> |
| g. <input type="checkbox"/> Other (specify): | <input type="checkbox"/> |

3. The child is an Indian child or there is reason to know that the child is an Indian child, and
- a. qualified expert witness testimony was provided by _____ ; and
- b. evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
- c. there **is** clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
- | | | |
|--|--|---|
| <input type="checkbox"/> Mother | <input type="checkbox"/> Biological father | <input type="checkbox"/> Legal guardian |
| <input type="checkbox"/> Presumed father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> Other (specify): | | |
| <input type="checkbox"/> Other (specify): | | |

4. Reasonable efforts were were not made to prevent or eliminate the need for removal from the home.

5. The child is an Indian child or where there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
- b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
- c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
- d. these efforts and the case plan have have not been **conducted** and **developed** to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers.
- e. the active efforts have proved successful unsuccessful.

6. **Based on the facts stated on the record, continuance in the home is contrary to the child's welfare and physical custody is removed from** (check all that apply)
- | | | |
|--|--|---|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> legal guardian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> Other (specify): | | |
| <input type="checkbox"/> Other (specify): | | |

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Family finding and engagement

7. a. The county agency has exercised due diligence to identify, locate, and contact the child's relatives.
- b. The county agency has not exercised due diligence to identify, locate, and contact the child's relatives.
- (1) The county agency is ordered to make such diligent efforts, except for individuals the agency has determined to be inappropriate to contact because of their involvement with the family or domestic violence.
- (2) The county agency must submit a report to the court on or before *(date)*: detailing the diligent efforts made and the results of such efforts.

Case plan development

8. a. The county agency solicited and integrated into the case plan the input of the child mother father representative of child's identified Indian tribe Other (specify):
 Other (specify):
- b. The county agency did not solicit and integrate into the case plan the input of the child mother father representative of child's identified Indian tribe Other (specify):
 Other (specify):
and the agency is ordered to do so and submit an updated case plan within 30 days of the date of this hearing.
- c. The county agency did not solicit and integrate into the case plan the input of the child mother father representative of child's identified Indian tribe Other (specify):
 Other (specify):
and the county agency is not required to do so because these persons are unable, unavailable, or unwilling to participate.

Custody and placement

9. The mother presumed father biological father did not reside with the child at the time the petition was filed and does does not desire custody of the child.
- a. By clear and convincing evidence, placement with the following parent would be detrimental to the safety, protection, or physical or emotional well-being of the child:
 Mother Presumed father Biological father
- b. The factual basis for the findings in this item is stated on the record.
10. **The care, custody, control, and conduct of the child is under the supervision of the county agency for placement**
- a. in the approved home of a relative.
- b. in the approved home of a nonrelative extended family member.
- c. the approved home of a resource family, as defined in **Welf. & Inst. Code, § 16519.5** or a home that is pending approval under section 16519.5(e)(1).
- d. with a foster family agency for placement in a foster family home.
- e. in a suitable licensed community care facility.
- f. in a short-term residential therapeutic program **or community treatment facility**. A hearing to review the placement under **Welf. & Inst. Code, § 361.22** was held on or is set for *(date)*:
11. **Placement with the child's relative, (name):**
has been independently considered by the court and is denied for the reasons stated on the record.
12. The child is an Indian child or there is reason to know the child is an Indian child. Currently *(choose one)*
- a. the child is placed with a member of the child's extended family as defined by section 1903 of title 25 of the United States Code; or
- b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. a diligent search was made for a placement with a member of the child's extended family **or in** a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. a diligent search was made for a placement with a member of the child's extended family, **or in** a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

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- 12. e. the child is placed in accordance with the preferences established by the tribe; or
- f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

13. **The child's out-of-home placement is necessary.**

14. **The child's current placement is appropriate.**

15. **The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.**

16. **The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.**

17. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

- a. The matter is continued to the date and time indicated in form JV-415, item 18 for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (*specify*):

18. For a child placed in short-term residential therapeutic program **or community treatment facility**, the court has considered the evidence and documentation submitted under **Welf. & Inst. Code, § 366.1(I)** when determining the continuing necessity for and appropriateness of the placement.

19. **The child is placed outside the state of California and that out-of-state placement**

- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. is not the most appropriate placement for the child and is not in the best interest of the child.
The matter is continued to the date and time indicated in form JV-415, item 18 for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) **Other (*specify*):**

Reunification services

20. **Provision of reunification services to the biological father** will will not benefit the child.

21. **The mother is incarcerated** and is seeking to participate in the Department of Corrections and Rehabilitation community treatment program.

- a. Participation in the program is is not in the child's best interest.
- b. The program is is not suitable to meet the needs of the mother and child.

22. The mother legal guardian **Other (*specify*):**
 presumed father Indian custodian **Other (*specify*):**
is incarcerated and reasonable reunification services are

- a. granted.
- b. denied because, by clear and convincing evidence, providing reunification services would be detrimental to the child.

23. **As provided in Welf. & Inst. Code, § 361.5(b), by clear and convincing evidence,**

- a. the mother legal guardian **Other (*specify*):**
 presumed father Indian custodian **Other (*specify*):**

is a person described in **Welf. & Inst. Code, § (choose all that apply)**

- 361.5(b)(3) 361.5(b)(7) 361.5(b)(9) 361.5(b)(11) 361.5(b)(13) 361.5(b)(16)
- 361.5(b)(4) 361.5(b)(8) 361.5(b)(10) 361.5(b)(12) 361.5(b)(15) 361.5(b)(17)

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23. a. and reunification services are
- (1) granted because, by clear and convincing evidence reunification is in the best interest of the child.
- (2) denied.
- b. The mother legal guardian Other (specify):
 presumed father Indian custodian Other (specify):
 is a person described in Welf. & Inst. Code, § 361.5(b)(1), and a reasonably diligent search has failed to locate the person. Reunification services are denied.
- c. The mother legal guardian Other (specify):
 presumed father Indian custodian Other (specify):
 is a person described in Welf. & Inst. Code, § 361.5(b)(2), and reunification services are
- (1) granted.
- (2) denied because the person, even with the provision of services, is unlikely to be capable of adequately caring for the child within the statutory time limits.
- d. The mother legal guardian Other (specify):
 presumed father Indian custodian Other (specify):
 is a person described in Welf. & Inst. Code, § 361.5(b)(5), and reunification services are
- (1) granted because
- (A) reunification services are likely to prevent reabuse or neglect.
- (B) the failure to try reunification will be detrimental to the child because the child is closely and positively bonded to the person.
- (2) denied.
- e. The mother legal guardian
 presumed father Indian custodian
 other person who is a legal parent of the child (name):
 Other (specify):
 is a person described in Welf. & Inst. Code, § 361.5(b)(6), and reunification services are
- (1) granted because by clear and convincing evidence reunification is in the best interest of the child.
- (2) denied because the child or the child's sibling suffered severe sexual abuse or the infliction of severe physical harm by the person, and it would not benefit the child to pursue reunification with that person.
- (3) The factual basis for the findings in this item is stated on the record.
- f. The mother legal guardian Other (specify):
 presumed father Indian custodian Other (specify):
 is a person described in Welf. & Inst. Code, § 361.5(b)(14). The court advised the person of any right to services and the possible consequences of a waiver. The person executed *Waiver of Reunification Services* (form JV-195), and the court accepts the waiver, the person having knowingly and intelligently waived the right to services. Reunification services are denied.
- g. **The county agency must provide reunification services**, and the following must participate in the reunification services stated in the case plan:
- Mother Biological father Presumed father Other (specify):
 Indian custodian Legal guardian Other (specify):

24. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (specify):

Efforts

25. The county agency has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete any steps necessary to finalize the permanent placement of the child.

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26. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Mother	<input type="checkbox"/>				
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>				
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>				
g. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>				

Siblings

27. The child does not have siblings under the court's jurisdiction.
28. The child has siblings under the court's jurisdiction. *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

29. The mother biological father Indian custodian
 presumed father legal guardian Other (specify):
 Other (specify):

is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

30. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

31. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

32. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (date):

33. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 28 or other concerns are
- a. stated in the social worker's report.
- b. specified here:

34. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 30:
- a. Social worker
- b. Parent (name):
- c. Surrogate parent (name):
- d. Educational representative (name):
- e. Other (name):

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35. The child's education placement has changed since the date the child was physically removed from the home.
- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
- b. The child is enrolled in school.
- c. The child is attending school.
36. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
- (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) the name of the support person(s) to assist the child is:
the support person's relationship(s) to the child is:
- (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (A) stated on the record.
- (B) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
37. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
38. **Child 14 years of age or older**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:

Advisements

39. Child under three years of age on the date of initial removal from the physical custody of the child's parent or guardian, or for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of the child's parent or guardian.
- a. **Failure to participate regularly and make substantive progress in court-ordered treatment programs may result in the termination of reunification services** for all or some members of the sibling group at the hearing scheduled on a date within six months from the date the child entered foster care under Welf. & Inst. Code, § 366.21(e).
-
- b. **At the six-month hearing** under Welf. & Inst. Code, § 366.21(e), the court will consider the following factors in deciding whether to limit reunification services to six months for all or some members of the sibling group:

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39. b. • whether the sibling group was removed from parental care as a group;
- the closeness and strength of the sibling bond;
 - the ages of the siblings;
 - the appropriateness of maintaining the sibling group;
 - the detriment to the child if sibling ties are not maintained;
 - the likelihood of finding a permanent home for the sibling group;
 - whether the sibling group is currently placed in the same preadoptive home or has a concurrent plan goal of legal permanency in the same home;
 - the wishes of each child whose age and physical and emotional condition permits a meaningful response; and
 - the best interest of each child in the sibling group.
- c. **At the six-month hearing** under **Welf. & Inst. Code, § 366.21(e)**, if the child is not returned to the custody of a parent, the case may be referred to a selection and implementation hearing under **Welf. & Inst. Code, § 366.26**. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**
40. **Child three years of age or older who is not a member of a sibling group as described in **Welf. & Inst. Code, § 361.5(a)(1)(C)**.** The court informed all parties present at the time of the hearing and further advises all parties that, because the child was three years of age or older with no siblings under the age of three years at the time of initial removal, if the child is not returned to the custody of a parent at the **Welf. & Inst. Code, § 366.21(f)** permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under **Welf. & Inst. Code, § 366.26**. The selection and implementation hearing **may result in the termination of parental rights and adoption of the child or, in the case of an Indian child for whom tribal customary adoption under **Welf. & Inst. Code, § 366.24** is selected as the permanent plan goal, modification of parental rights and the adoption of the child.**

Twelve-month permanency hearing date:

41. a. **The matter is ordered set for hearing under **Welf. & Inst. Code, § 366.26** to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, the court found that reunification services were not to be provided to the child's parents, legal guardian, or Indian custodian under **Welf. & Inst. Code, § 361.5(b)**.
- c. The county agency and the licensed county adoption agency or the California Department of Social Services acting as an adoption agency will prepare and serve an assessment report as described in **Welf. & Inst. Code, § 361.5(g)**.
- d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.695(g)(10) of the California Rules of Court to any party not present.
- e. The court orders that no notice of the hearing set under **Welf. & Inst. Code, § 366.26** be provided to the person named below, who is a mother, a presumed father, or an alleged father and who had relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code section 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
- (1) (name):
 - (2) (name):
 - (3) (name):
 - (4) (name):
- f. **The likely date** by which the permanent plan will be achieved is (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-430.v11.081322.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER SIX-MONTH STATUS REVIEW HEARING (Welf. & Inst. Code, § 366.21(e))	CASE NUMBER:

1. Six-month status review hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. Party (name):				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence

- a. report of social worker dated:
- b. report of CASA volunteer dated:
- c. case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For a child 10 years of age or older who is not present,
 - (1) the child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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3. b. (2) the child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing, or the child wished to be present and was not given an opportunity to be present, and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.

6. Parentage

- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on **their** own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):

The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

CHILD'S NAME:	CASE NUMBER:
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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:

- Child
 Mother
 Father
 Representative of child's identified Indian tribe
 Other (specify): _____
 Other (specify): _____

The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. The county agency

- a. has
b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,

- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
- b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
- c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
- d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
- e. the active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>				
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>				
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				

Siblings

13. The child does not have siblings under the court's jurisdiction.
14. The child has siblings under the court's jurisdiction. *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.

Health and education

15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

CHILD'S NAME:	CASE NUMBER:
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15. b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in **Order Designating Educational Rights Holder** (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

- 16. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on **(specify date):**

18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are

- a. stated in the social worker's report.
- b. specified here:

19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:

- a. Social worker
- b. Parent (name):
- c. Surrogate parent (name):
- d. Educational representative (name):
- e. Other (name):

20. The child's education placement has changed since the last review hearing.

- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
- b. The child is enrolled in school.
- c. The child is attending school.

21. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, **Status Review Attachment: Sexual and Reproductive Health Services** (form JV-459(A)) has been completed and is attached.

22. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),

- (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) the name of the support person(s) to assist the child is: The support person's relationship(s) to the child is:
- (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (A) stated on the record.
 - (B) as follows:

b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

CHILD'S NAME:	CASE NUMBER:
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23. **Child 14 years of age or older:**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

24. **Placement and services are ordered as stated in** *(check appropriate boxes and attach indicated forms)*
- a. *Six-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(e)) (form JV-431), which is attached and incorporated by reference.*
 - b. *Six-Month Prepermanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(e)) (form JV-432), which is attached and incorporated by reference.*
 - c. *Six-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(e)) (form JV-433), which is attached and incorporated by reference.*

25. **Contact with the child is ordered as stated in** *(check appropriate box and attach indicated form)*
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person (form JV-400)*
 - b. *Visitation Attachment: Sibling (form JV-401)*
 - c. *Visitation Attachment: Grandparent (form JV-402)*

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders**
- a. See attached.
 - b. *(Specify):*

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. 12-month permanency hearing (Welf. & Inst. Code, § 366.21(f))
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- e. Other *(specify):*

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____

Judicial Officer

CHILD'S NAME:

CASE NUMBER:

SIX-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(e))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**
3. **The child's current placement is appropriate.**
4. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in form JV-430, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (*specify*):
6. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*),
- a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. the child is placed in accordance with the preferences established by the tribe; or
- f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
9. **The child is placed outside the state of California, and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 28, for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (*specify*):

CHILD'S NAME:	CASE NUMBER:
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Reunification services

10. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
 - d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
 - e. the active efforts have proved successful unsuccessful.

11. Reunification services continued: Child under age of three at time of removal or member of sibling group

- a. The child was under the age of three years on the date of the initial removal from the home.
- b. The child and the child's siblings listed below form a sibling group in which one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time and are placed together.
 - (1)
 - (2)
 - (3)
 - (4)
 - (5)
 - (6)
- c. Services are continued as described in item 12; OR
- d. The court finds by clear and convincing evidence that the parent or legal guardian failed to participate regularly and make substantive progress in a court-ordered treatment plan, but reunification services are continued because
 - (1) having considered the relevant evidence, including
 - (A) whether there has been significant progress in resolving the problems that led to the removal;
 - (B) whether the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs has been demonstrated; and
 - (C) whether there has been consistent and regular contact and visitation with the child;

the court finds there is a substantial probability that the child may be returned to the

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> Indian custodian
<input type="checkbox"/> presumed father	<input type="checkbox"/> legal guardian	<input type="checkbox"/> Other (specify):
<input type="checkbox"/> Other (specify):		

within six months of the date of this hearing or within 12 months of the date the child entered foster care, whichever is sooner.

 - (2) Reasonable services have not been provided to the

<input type="checkbox"/> mother	<input type="checkbox"/> biological father	<input type="checkbox"/> Indian custodian
<input type="checkbox"/> presumed father	<input type="checkbox"/> legal guardian	<input type="checkbox"/> Other (specify):
<input type="checkbox"/> Other (specify):		

CHILD'S NAME:	CASE NUMBER:
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12. Reunification services are continued for the

- mother biological father Indian custodian
 presumed father legal guardian Other (*specify*):
 Other (*specify*):
- a. as previously ordered.
- b. as modified
- (1) on the record.
- (2) in the case plan.

13. **The likely date** by which the child may be returned to and safely maintained in the home or placed for adoption, tribal customary adoption in the case of an Indian child, legal guardianship, placed with a fit and willing relative or in another planned permanent living arrangement is (*date*):

Important individuals

14. **The child is 10 years of age or older and has been in out-of-home placement for six months or longer.**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- b. The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
- (1) as stated on the record.
- (2) as follows:

Health

15. The mother biological father Indian custodian
 presumed father legal guardian Other (*specify*):
 Other (*specify*):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

16. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twelve-month permanency hearing date:

CHILD'S NAME:

CASE NUMBER:

**SIX-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.21(e))**

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**
3. **The child's current placement is appropriate.**
4. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(I) when determining the continuing necessity for and appropriateness of the placement.
5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in form JV-430, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (specify):
6. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (choose one),
- a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. the child is placed in accordance with the preferences established by the tribe; or
- f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.
9. **The child is placed outside the state of California, and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-430, item 28, for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (specify):

CHILD'S NAME:	CASE NUMBER:
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Reunification services

10. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
 - d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
 - e. the active efforts have proved successful unsuccessful.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and
- a. qualified expert witness testimony was provided by _____ ; and
 - b. evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:
 - Mother Biological father Legal guardian
 - Presumed father Indian custodian
 - Other (specify): _____
 - Other (specify): _____

12. Reunification services terminated: Child under age of three years at time of removal or member of sibling group

- a. The child was under the age of three years on the date of the initial removal from the home.
- b. The child and the child's siblings listed below form a sibling group in which one child in the sibling group was under the age of three years at the time of the initial removal, and all children in the sibling group were removed from parental custody at the same time and are placed together.
 - (1)
 - (2)
 - (3)
 - (4)
 - (5)
 - (6)
- c. By clear and convincing evidence the
 - mother biological father Indian custodian
 - presumed father legal guardian Other (specify): _____
 - Other (specify): _____

failed to participate regularly and make substantive progress in a court-ordered treatment plan and there is not a substantial probability of return within six months. Reunification services are terminated.
- d. Scheduling a hearing under Welf. & Inst. Code, § 366.26 for this child and some or all members of the sibling group is in the child's best interest. The factual basis for this finding is stated on the record.

CHILD'S NAME:	CASE NUMBER:
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13. **Reunification services terminated: Child of any age**

- a. Reunification services are terminated for the
- | | | |
|---|--|---|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Other (specify): | | |

because the child was initially removed from the person indicated under Welf. & Inst. Code, § 300(g) and, by clear and convincing evidence,

- (1) the person's whereabouts remain unknown.
 (2) the person has not had contact or visited with the child for six months.

- b. Reunification services are terminated for the
- | | | |
|---|--|---|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Other (specify): | | |

because, by clear and convincing evidence, that person has been convicted of a felony indicating parental unfitness.

- c. Reunification services are terminated for the
- | | | |
|---|--|---|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Other (specify): | | |

because it is determined that the person is deceased.

14. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.

Important individuals

15. **Child in out-of-home placement for six months or longer**

- a. The county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- b. The county agency has **not** made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationship with those individuals, consistent with the child's best interest.
- c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
- (1) as stated on the record.
 (2) as follows:

Health

16. The mother biological father Other (specify):
 presumed father legal guardian Other (specify):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

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Setting for selection of permanent plan

17. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ (Juvenile Dependency)* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).
 - (1) *(name):*
 - (2) *(name):*
 - (3) *(name):*
 - (4) *(name):*
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(date)*:
18. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
- a. The child's permanent plan is permanent placement with *(name):* _____, a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is *(date)*:
 - b. The child is ordered to remain in foster care with a permanent plan of *(specify)*
 - (1) return home.
 - (2) adoption.
 - (3) tribal customary adoption.
 - (4) legal guardianship.
 - (5) placement with a fit and willing relative.

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18. c. The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
- return home.
 - place for adoption.
 - Other (*specify*):
 - establish legal guardianship.
 - place with a relative.

The likely date by which the child's permanent plan will be achieved is (*date*):

- d. The court finds that the barriers to achieving the child's permanent plans are (*describe*):

19. For children 16 years of age or older placed in another planned permanent living arrangement,
- a. the court asked the child where the child wants to live, and the child provided the following information (*describe*):

- b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (*describe*):

- c. the compelling reasons why the other permanent plan options are not in the child's best interests are (*describe*):

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-435.v9.080322.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER 12-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.21(f))	CASE NUMBER:

1. Twelve-month permanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

	Present	Attorney (name):	Present	Appointed today
h. Party (name):				
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
i. Others present in courtroom:				
(1) Court Appointed Special Advocate (CASA) volunteer (name):				
(2) Other (name):				
(3) Other (name):				

2. The court has read and considered and admits into evidence the

- a. report of social worker dated:
- b. report of CASA volunteer dated:
- c. case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For a child 10 years of age or older who is not present,
- (1) the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

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3. b. (2) the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d), or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
- (B) it is in the best interest of the child not to continue the hearing.
4. The child is an Indian child or there is reason to know the child is an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.
6. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. **The court has informed and advised the**

- | | | | |
|--|--|--|--------------------------------|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> child |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> alleged father | <input type="checkbox"/> Indian custodian | |
| <input type="checkbox"/> Other (<i>specify</i>): | | <input type="checkbox"/> Other (<i>specify</i>): | |

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*): Other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):
- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):

The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
 Other (specify): _____ Other (specify): _____
- The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. The county agency

- a. has
 b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
 - d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
 - e. the active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	<u>None</u>	<u>Minimal</u>	<u>Adequate</u>	<u>Substantial</u>	<u>Excellent</u>
a. <input type="checkbox"/> Mother	<input type="checkbox"/>				
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>				
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				

Siblings

13. **The child does not have siblings under the court's jurisdiction.**
14. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement (form JV-403) is attached and incorporated by reference.*

Health and education

15. a. **A limitation on the right of the parents to make educational decisions for the child is not necessary.** The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder (form JV-535)* filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

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- 16. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

- 17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*: .

- 18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are
 - a. stated in the social worker's report.
 - b. specified here:

- 19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
 - a. Social worker
 - b. Parent *(name)*:
 - c. Surrogate parent *(name)*:
 - d. Educational representative *(name)*:
 - e. Other *(name)*:

- 20. The child's education placement has changed since the last review hearing.
 - a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - b. The child is enrolled in school.
 - c. The child is attending school.

- 21. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

- 22. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
 - (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) the name of the support person(s) to assist the child is: _____, and the relationship(s) to the child is: _____.
 - (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (A) stated on the record.
 - (B) as follows:

- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

- 23. **Child 14 years of age or older:**
 - a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.

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23. c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:

24. **Placement and services are ordered as stated in** (check appropriate boxes and attach indicated forms)
- a. *Twelve-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.21(f))* (form JV-436), which is attached and incorporated by reference.
- b. *Twelve-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.21(f))* (form JV-437), which is attached and incorporated by reference.
- c. *Twelve-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.21(f))* (form JV-438), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form)
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. *Visitation Attachment: Sibling* (form JV-401).
- c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders**
- a. See attached.
- b. (Specify):

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
---------------	-------	--------	-------

- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. 18-month permanency hearing (Welf. & Inst. Code, § 366.22)
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- e. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- f. Other (specify):

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____

Judicial Officer

CHILD'S NAME:	CASE NUMBER:
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TWELVE-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.21(f))

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**
3. **The child's current placement is appropriate.**
4. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.
5. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (specify):
6. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
7. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
8. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (choose one),
- a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
- b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
- c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
- e. the child is placed in accordance with the preferences established by the tribe; or
- f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

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9. **The child is placed outside the state of California, and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. **is no longer** the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

Reunification services

10. a. **There is substantial probability that the child may be returned** to the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (<i>specify</i>): |
| <input type="checkbox"/> Other (<i>specify</i>): | | |
- by the date set for the 18-month permanency hearing under Welf. & Inst. Code, § 366.22 because the person has
- (1) made significant progress in resolving the problems that led to the removal;
 - (2) demonstrated the capacity and ability to complete the objectives of the treatment plan and to provide for the safety, protection, physical and emotional health, and special needs of the child; and
 - (3) consistently and regularly contacted and visited the child.
- b. Reasonable services have not been provided to the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (<i>specify</i>): |
| <input type="checkbox"/> Other (<i>specify</i>): | | |

11. Reunification services are continued for the
- | | | |
|--|--|--|
| <input type="checkbox"/> mother | <input type="checkbox"/> biological father | <input type="checkbox"/> Indian custodian |
| <input type="checkbox"/> presumed father | <input type="checkbox"/> legal guardian | <input type="checkbox"/> Other (<i>specify</i>): |
- a. as previously ordered.
 - b. as modified
 - (1) on the record.
 - (2) in the case plan.

12. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (*date*):

Important individuals

13. **Child 10 years of age or older**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has not made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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Health

14. The mother biological father Indian custodian
 presumed father legal guardian Other (*specify*):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

15. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 18-month permanency hearing set on a date within 18 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26 **that may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Eighteen-month permanency hearing date:
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CHILD'S NAME:	CASE NUMBER:
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**TWELVE-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.21(f))**

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **Reunification services are terminated.**
3. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
 - a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
 - d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
 - e. the active efforts have proved successful unsuccessful.
4. The child is an Indian child or there is reason to know that the child is an Indian child, and
 - a. qualified expert witness testimony was provided by (name): _____ ; and
 - b. evidence regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - c. there is clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> Mother	<input type="checkbox"/> Biological father	<input type="checkbox"/> Legal guardian
<input type="checkbox"/> Presumed father	<input type="checkbox"/> Indian custodian	
<input type="checkbox"/> Other (specify):		

Placement

5. **The child's out-of-home placement is necessary.**
6. **The child's current placement is appropriate.**
7. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
8. **The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.**
9. **The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.**
10. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
 - a. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (specify):

CHILD'S NAME:	CASE NUMBER:
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11. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (choose one),
- a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
 - b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - e. the child is placed in accordance with the preferences established by the tribe; or
 - f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. **The child is placed outside the state of California, and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-435, item 28, for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (specify):

13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.

Important individuals

14. **For a child who is 10 years of age or older,**
- a. the county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. the county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. to identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

15. The mother biological father Other (specify):
 presumed father legal guardian Other (specify):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:
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Selection of permanent plan

16. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

a. The child's permanent plan is permanent placement with (name): _____, a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (date): _____

b. The child is ordered to remain in foster care with a permanent plan of

- (1) return home.
- (2) adoption.
- (3) tribal customary adoption.
- (4) legal guardianship.
- (5) placement with a fit and willing relative.

c. The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to

- return home.
- establish legal guardianship.
- place for adoption.
- place with a relative.
- Other (specify): _____

The likely date by which the child's permanent plan will be achieved is (date): _____

d. The court finds that the barriers to achieving the child's permanent plans are (describe): _____

17. **For children 16 years of age or older placed in another planned permanent living arrangement,**

a. the court asked the child where the child wants to live, and the child provided the following information (describe): _____

b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (describe): _____

c. the compelling reasons why the other permanent plan options are not in the child's best interest are (describe): _____

CHILD'S NAME:	CASE NUMBER:
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18. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.21(i).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to **their** usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under **Family Code section 8700**, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).
 - (1) (name):
 - (2) (name):
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is (*specify date*):

CHILD'S NAME:	CASE NUMBER:
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3. b. (2) The child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.
6. **Parentage**
- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage (Juvenile)* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. **The court has informed and advised the**

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*): Other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*): Other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Case plan development

9. a. The following were actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):

- b. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:

- Child Mother Father Representative of child's identified Indian tribe
- Other (*specify*): Other (*specify*):

The county agency is ordered to actively involve them and submit an updated case plan within 30 days of the date of this hearing.

CHILD'S NAME:	CASE NUMBER:
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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
- Child Mother Father Representative of child's identified Indian tribe
- Other (specify): _____ Other (specify): _____
- The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
- b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
- c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
- d. these efforts and the case plan have have not been conducted and developed to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
- e. the active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Mother	<input type="checkbox"/>				
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>				
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				

Siblings

13. The child does not have siblings under the court's jurisdiction.
14. The child has siblings under the court's jurisdiction. Sibling Attachment: Contact and Placement (form JV-403) is attached and incorporated by reference.

Health and education

15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

CHILD'S NAME:	CASE NUMBER:
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15. b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in *Order Designating Educational Rights Holder* (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
16. a. The child's educational needs are are not being met.
 b. The child's physical needs are are not being met.
 c. The child's mental health needs are are not being met.
 d. The child's developmental needs are are not being met.
17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*:
18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are
 a. stated in the social worker's report.
 b. specified here:
19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
 a. Social worker
 b. Parent (*name*):
 c. Surrogate parent (*name*):
 d. Educational representative (*name*):
 e. Other (*name*):
20. The child's education placement has changed since the last review hearing.
 a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 b. The child is enrolled in school.
 c. The child is attending school.
21. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
22. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
 (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 (2) the name of the support person(s) to assist the child is: _____, and the support person's relationship(s) to the child is: _____.
 (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 (a) stated on the record.
 (b) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

CHILD'S NAME:	CASE NUMBER:
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23. **Child 14 years of age or older**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

24. **Placement and services are ordered as stated in** *(check appropriate boxes and attach indicated forms)*
- a. *Eighteen-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.22)* (form JV-441), which is attached and incorporated by reference.
 - b. *Eighteen-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.22)* (form JV-442), which is attached and incorporated by reference.
 - c. *Eighteen-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.22)* (form JV-443), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** *(check appropriate box and attach indicated form)*
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders**
- a. See attached.
 - b. *(Specify):*

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. Twenty-four-month permanency hearing (Welf. & Inst. Code, § 366.25)
- c. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- d. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- e. **Nonminor dependent status review (Welf. & Inst. Code, § 366.31)**
- f. Other *(specify):*

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____ _____ *Judicial Officer*

CHILD'S NAME:

CASE NUMBER:

**EIGHTEEN-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.22)**

1. By a preponderance of the evidence, the return of the child to **their** parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **Reunification services are terminated.**
3. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record
- affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe;
 - these efforts and the case plan have have not been **conducted and developed** to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; **and**
 - the active efforts have proved successful unsuccessful.
4. The child is an Indian child or there is reason to know that the child is an Indian child, and
- qualified expert witness testimony** was provided by (*name*): _____ ; and
 - evidence** regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - there is** clear and convincing evidence that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> Mother	<input type="checkbox"/> Biological father	<input type="checkbox"/> Legal guardian
<input type="checkbox"/> Presumed father	<input type="checkbox"/> Indian custodian	<input type="checkbox"/> Other (<i>specify</i>): _____
<input type="checkbox"/> Other (<i>specify</i>): _____		

Placement

5. **The child's out-of-home placement is necessary.**
6. **The child's current placement is appropriate.**
7. For a child placed in a short-term residential therapeutic program or **community treatment facility**, the court has considered the evidence and documentation submitted under **Welf. & Inst. Code, § 366.1(f)** when determining the continuing necessity for and appropriateness of the placement.
8. **The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.**
9. **The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.**
10. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- The matter is continued to the date and time indicated in form JV-440, item **28**, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - Other (*specify*): _____

CHILD'S NAME:	CASE NUMBER:
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11. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*),
- a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or
 - b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - e. the child is placed in accordance with the preferences established by the tribe; or
 - f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

12. **The child is placed outside the state of California, and that out-of-state placement**

- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.

Important individuals

14. **For a child who is 10 years of age or older,**

- a. the county agency has made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- b. the county agency has not made reasonable efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
- c. to identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

CHILD'S NAME:	CASE NUMBER:
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Health

15. The mother biological father Other (specify):
 presumed father legal guardian Other (specify):
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Selection of permanent plan

16. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

a. The child's permanent plan is permanent placement with (name): , a fit and willing relative.

The likely date by which the child's permanent plan will be achieved is (date):

b. The child is ordered to remain in foster care with a permanent plan of

- (1) return home.
- (2) adoption.
- (3) tribal customary adoption.
- (4) legal guardianship.
- (5) placement with a fit and willing relative.

c. The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to

- return home.
- establish legal guardianship.
- place for adoption.
- place with a relative.
- Other (specify):

The likely date by which the child's permanent plan will be achieved is (date):

d. The court finds that the barriers to achieving the child's permanent plans are (describe):

17. **For children 16 years of age or older placed in another planned permanent living arrangement.**

a. The court asked the child where the child wants to live, and the child provided the following information (describe):

b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (describe):

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17. c. The compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

18. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**
- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
 - c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(c).
 - d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
 - e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to **their** usual place of residence or business only.
 - f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under **Family** Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).
 - (1) *(name)*:
 - (2) *(name)*:
 - g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is *(date)*:

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EIGHTEEN-MONTH PERMANENCY ATTACHMENT: REUNIFICATION SERVICES CONTINUED
(Welf. & Inst. Code, § 366.22)

1. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.

Placement

2. **The child's out-of-home placement is necessary.**

3. **The child's current placement is appropriate.**

4. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(l) when determining the continuing necessity for and appropriateness of the placement.

5. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.

6. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.

7. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

a. The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.

b. Other (specify):

8. There has been a change in the child's placement and the child is an Indian child, or there is reason to know that the child is an Indian child. Currently (choose one),

a. the child is placed with a member of the child's extended family as defined by 25 U.S.C. § 1903; or

b. a diligent search was made for a placement with a member of the child's extended family, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or

c. a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

d. a diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or

e. the child is placed in accordance with the preferences established by the tribe; or

f. the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.

9. **The child is placed outside the state of California, and that out-of-state placement**

a. continues to be the most appropriate placement for the child and is in the best interest of the child.

b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-440, item 28, for a written oral report by the county agency on the progress made toward

(1) returning the child to California and locating an appropriate placement within California.

(2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.

(3) Other (specify):

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Reunification services

10. By clear and convincing evidence, it is in the best interest of the child to provide additional reunification services to the

- a. mother biological father Indian custodian
 presumed father legal guardian Other (specify):
 Other (specify):

- (1) who is making significant and consistent progress in a substance abuse treatment program.
(2) who is recently discharged from incarceration, institutionalization, or the custody of the Department of Homeland Security and making significant and consistent progress in establishing a safe home for the child's return.
(3) who was a minor parent or a nonminor dependent parent at the time of the initial hearing and is making significant and consistent progress in establishing a safe home for the child's return.

and

b. There is a substantial probability that the child may be returned to the

- mother biological father Indian custodian
 presumed father legal guardian Other (specify):
 Other (specify):

by the date set for the 24-month permanency hearing under Welf. & Inst. Code, § 366.25 because the person has

- (1) consistently and regularly contacted and visited the child;
(2) made significant and consistent progress in the prior 18 months in resolving the problems that led to the child's removal from the home; and
(3) demonstrated the capacity and ability to provide for the safety, protection, physical and emotional health, and special needs of the child and
(a) to complete the objectives of their substance abuse treatment plan as evidenced by reports from a substance abuse provider.
(b) to complete a treatment plan postdischarge from incarceration or institutionalization.

- c. The court finds reasonable reunification services have not been provided. Based on this finding and other relevant factors, including the likelihood of success of further reunification services and the child's need for a prompt resolution of dependency status, the court finds good cause under Welf. and Inst. Code section 352 to continue the 18-month status review to (date):

11. Reunification services are continued for the

- mother biological father Indian custodian
 presumed father legal guardian Other (specify):
 Other (specify):

- a. as previously ordered.
b. as modified
(1) on the record.
(2) in the case plan.

12. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is (date):

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Important individuals

13. **Child 10 years of age or older**
- a. The county agency has made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has **not** made efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

14. The mother biological father Indian custodian
 presumed father legal guardian Other (specify):
 Other (specify):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

Advisement

15. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the 24-month permanency hearing set on a date within 24 months from the date the child was initially removed from their home, the case may be referred to a selection and implementation hearing under Welf. & Inst. Code, § 366.26. **That hearing may result in the termination of parental rights and adoption of the child and other members of the sibling group or, in the case of an Indian child for whom tribal customary adoption under Welf. & Inst. Code, § 366.24 is selected as the permanent plan goal, modification of parental rights and the adoption of the child and other members of the sibling group.**

Twenty-four-month permanency hearing date:
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3. b. (2) the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.

Placement

6. **The child's out-of-home placement is necessary.**
7. **The child's current placement is appropriate.**
8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
9. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
- a. The matter is continued to the date and time indicated in item 35 for a written oral report by the county agency on the progress made in locating an appropriate placement.
- b. Other (*specify*):
12. **The child is placed outside the state of California, and that out-of-state placement**
- a. continues to be the most appropriate placement for the child and is in the best interest of the child.
- b. **is no longer** the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in item 35 for a written oral report by the county agency on the progress made toward
- (1) returning the child to California and locating an appropriate placement within California.
- (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
- (3) Other (*specify*):

Case plan development

13. a. The child was actively involved in the case plan development, including the child's plan for permanent placement.
- b. The child was not actively involved in the case plan development, including the child's plan for permanent placement, and
- (1) the county agency is ordered to actively involve the child in the case plan development, including the plan for permanent placement, and to submit to the court an updated case plan within 30 days of the date of this hearing.
- (2) the county agency is not required to actively involve the child because the child is unable, unavailable, or unwilling to participate.

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14. **Child 12 years of age or older:**
- a. The child was given the opportunity to review the case plan, sign it, and receive a copy.
 - b. The child was not given the opportunity to review the case plan, sign it, and receive a copy, and
 - (1) the county agency is ordered to provide the child with the opportunity to review the case plan, sign it, and receive a copy. The county agency is further ordered to submit to the court within 30 days of the date of this hearing written confirmation that the child was provided with this opportunity.
 - (2) the county agency is not required to actively involve the child in the case plan development because the child was unable, unavailable, or unwilling to participate.

Efforts

15. **The county agency**

- a. has
- b. has not

complied with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

16. **Child not yet placed with prospective adoptive parent or a guardian**

- a. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.
- b. The child has identified the following as an individual important to him or her:
 - (1) *(name):*
 - (2) *(name):*
- c. The county agency has has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.
- d. The county agency has has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.
- e. The county agency has has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.
- f. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:
- g. To identify a prospective adoptive parent or a legal guardian for the child, the county agency must provide the service
 - (1) as stated on the record.
 - (2) as follows:

17. The services provided to the child have been

- a. adequate.
- b. not adequate.

Health and education

- 18. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

19. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*: .

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20. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 18 or other concerns are
- stated in the social worker's report.
 - specified here:
21. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 20:
- Social worker
 - Surrogate parent (*name*):
 - Educational representative (*name*):
 - Other (*name*):
22. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services (form JV-459(A))* has been completed and is attached.
23. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
- an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - the name of the support person(s) to assist the child is: _____ . The support person's relationship(s) to the child is: _____ .
 - an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - stated on the record.
 - as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
24. The child's education placement has changed since the last review hearing.
- The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - The child is enrolled in school.
 - The child is attending school.
25. **Child 14 years of age or older**
- The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - stated on the record.
 - as follows:

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-446.v15.081622.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING— PERMANENT PLAN OTHER THAN ADOPTION (Welf. & Inst. Code, § 366.3)	CASE NUMBER:

1. Postpermanency hearing

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

		<u>Attorney name</u>		Appointed today
<u>Party name</u>	<u>Present</u>		<u>Present</u>	<u>today</u>
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence

- a. report of social worker (dated):
- b. report of CASA volunteer (dated):
- c. case plan (dated):
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For a child 10 years of age or older who is not present,
 - (1) the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

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3. b. (2) the child was not properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) or the child wished to be present and was not given an opportunity to be present and
- (A) there is good cause for a continuance for a period of time necessary to provide notice and secure the presence of the child.
- (B) it is in the best interest of the child not to continue the hearing.
4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
5. A Court Appointed Special Advocate is appointed for the child.

6. Parentage

- a. The court inquired of the child's parents present at the hearing and other appropriate persons present as to the identity and addresses of all presumed or alleged parents of the child. All alleged parents present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.
- b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
- (1) alleged parent (*name*):
- (2) alleged parent (*name*):
- (3) alleged parent (*name*):

Advisements and waivers

7. The court has informed and advised the

- mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*):
- Other (*specify*):

of the following: the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify at the hearing; the right to subpoena witnesses; the right to present evidence on one's own behalf; and the right of the child and each parent, legal guardian, and Indian custodian to be present and to be represented by counsel at every stage of the proceedings. The court may appoint counsel subject to the court's right to seek reimbursement, if an individual is entitled to appointed counsel and the individual is financially unable to retain counsel.

8. The mother biological father legal guardian child
- presumed father alleged father Indian custodian
- Other (*specify*):
- Other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on their own behalf.

Placement

9. Continued out-of-home placement is in the best interest of the child.
10. The child's out-of-home placement is necessary.
11. Continued out-of-home placement is no longer necessary. The child is ordered immediately returned to the home of the mother father legal guardian Other (*specify*):
- a. Family maintenance services are ordered for six months.
- b. The family does not need further services, and the person(s) specified in item 11 is or are granted physical and legal custody of the child under the custody order and final judgment entered this day. Visitation with the child will be as stated in the *Visitation Order-Juvenile* (form JV-205). The clerk of the juvenile court must file with the family court a completed *Custody Order-Juvenile-Final Judgment* (form JV-200) and *Visitation Order-Juvenile* (form JV-205).

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- 12. **The child's current placement is appropriate.**
- 13. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
- 14. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
- 15. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
- 16. **The child's current placement is not appropriate.** The county agency must locate an appropriate place for the child.
 - a. The matter is continued to the date and time indicated in item 45 for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (*specify*):
- 17. **The child is placed outside the state of California, and that out-of-state placement**
 - a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. **is no longer** the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in item 45 for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):
- 18. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.

Case plan development

- 19. a. The child was actively involved in the case plan development, including the child's plan for permanent placement.
- b. The child was not actively involved in the case plan development, including the child's plan for permanent placement, and
 - (1) the county agency is ordered to actively involve the child in the case plan development, including the plan for permanent placement, and to submit to the court an updated case plan within 30 days of the date of this hearing.
 - (2) the county agency is not required to actively involve the child in the case plan development because the child was unable, unavailable, or unwilling to participate.
- 20. **Child 14 years of age or older**
 - a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

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21. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

Efforts

22. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

23. The services provided to the child have been

- a. adequate.
- b. not adequate.

24. Child is 10 years of age or older and has been in an out-of-home placement for six months or longer.

- a. The child has identified the following as an individual important to **the child**:
 - (1) (name):
 - (2) (name):
- b. The county agency has has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.
- c. The county agency has has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.
- d. The county agency has has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.
- e. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:
- f. To identify a prospective adoptive parent or a legal guardian for the child, the county agency must provide the service
 - (1) as stated on the record.
 - (2) as follows:

Siblings

- 25. **The child does not have siblings under the court's jurisdiction.**
- 26. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement* (form JV-403) is attached and incorporated by reference.
- 27. The child has siblings. A postadoption sibling contact agreement has has not been developed. If not, the court has inquired into the status of the development of a voluntary postadoption sibling contact agreement.

Education

- 28. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

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29. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 28 or other concerns are
- a. stated in the social worker's report.
 - b. specified here:
30. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 29:
- a. Social worker
 - b. Parent (*name*):
 - c. Surrogate parent (*name*):
 - d. Educational representative (*name*):
 - e. Other (*name*):
31. The child's education placement has changed since the last review hearing.
- a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll, and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - b. The child is enrolled in school.
 - c. The child is attending school.
32. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
- (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) the name of the support person(s) to assist the child is: _____ . The support person's relationship(s) to the child is: _____ .
 - (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
 - (A) stated on the record.
 - (B) as follows:
- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.
33. **Child 12 years of age or older**
- a. The child was given the opportunity to review the case plan, sign it, and receive a copy.
 - b. The child was not given the opportunity to review the case plan, sign it, and receive a copy, and
 - (1) the county agency is ordered to provide the child with the opportunity to review the case plan, sign it, and receive a copy. The agency is further ordered to submit to the court within 30 days of the date of this hearing written confirmation that the child was provided with this opportunity.
 - (2) the county agency is not required to give the child this opportunity because the child was unable, unavailable, or unwilling to participate.

Health

34. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*): _____ .

CHILD'S NAME:	CASE NUMBER:
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37. c. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe)*:

d. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

38. The mother father Other *(specify)*: _____ has proved by a preponderance of the evidence that further efforts at reunification are the best alternative for the child under Welf. & Inst. Code, § 366.3(f). Further reunification services to return the child to a safe home environment are ordered for the parent for a period of six months. The case plan dated _____ is appropriate, and the mother father Other *(specify)*: _____ is ordered to participate in the case plan.

39. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.

40. The child's permanent plan identified in item 36 is appropriate and continues as the permanent plan.

41. a. The child's permanent plan identified in item 36 may not be appropriate, and the matter is ordered set for a hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.
- b. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(b).
- c. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
- d. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
- e. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Family Code, § 8700, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).

- (1) *(name)*:
- (2) *(name)*:
- (3) *(name)*:
- (4) *(name)*:

CHILD'S NAME:	CASE NUMBER:
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42. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form)
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. *Visitation Attachment: Sibling* (form JV-401).
 - c. *Visitation Attachment: Grandparent* (form JV-402).

43. **All prior orders not in conflict with this order remain in full force and effect.**

44. **Other findings and orders**
- a. See attached.
 - b. (Specify):

45. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept:	Room:
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- a. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
- b. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- c. Nonminor dependent status review (Welf. & Inst. Code, § 366.31)
- d. Other (specify):

46. Number of pages attached: _____

Date: _____

_____ *Judicial Officer*

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-455.v8.073022.cz
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER 24-MONTH PERMANENCY HEARING (Welf. & Inst. Code, § 366.25)		CASE NUMBER:

1. **Twenty-four-month permanency hearing**

- a. Date:
- b. Department:
- c. Judicial officer (name):
- d. Court clerk (name):
- e. Court reporter (name):
- f. Bailiff (name):
- g. Interpreter (name and language):

h. <u>Party (name):</u>	Present	<u>Attorney (name):</u>	Present	Appointed today
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Tribal representative:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(11) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(12) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
 - (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. **The court has read and considered and admits into evidence**

- a. report of social worker dated:
- b. report of CASA volunteer dated:
- c. case plan dated:
- d. Other (specify):
- e. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. For a child 10 years of age or older who is not present,
 - (1) the child was properly notified of the right to attend the hearing under Welf. & Inst. Code, § 349(d) and was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.

CHILD'S NAME:	CASE NUMBER:
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9. c. The following were **not** actively involved in the case plan development, including the child's plan for permanent placement:
- Child
 Mother
 Father
 Representative of child's identified Indian tribe
 Other (specify): _____
 Other (specify): _____
- The county agency is not required to involve them because these persons are unable, unavailable, or unwilling to participate.

Efforts

10. The county agency

- a. has
- b. has not

complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent placement of the child.

11. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- a. affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - b. these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - c. to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe; and
 - d. these efforts and the case plan have have not been **conducted and developed** to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians and the tribe, and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; and
 - e. the active efforts have proved successful unsuccessful.

12. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Mother	<input type="checkbox"/>				
b. <input type="checkbox"/> Presumed father	<input type="checkbox"/>				
c. <input type="checkbox"/> Biological father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Indian custodian	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				
g. <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/>				

Siblings

13. **The child does not have siblings under the court's jurisdiction.**
14. **The child has siblings under the court's jurisdiction.** *Sibling Attachment: Contact and Placement (form JV-403) is attached and incorporated by reference.*

Health and education

15. a. A limitation on the right of the parents to make educational decisions for the child is **not** necessary. The parents hold educational rights and responsibilities in regard to the child's education, including those described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.
- b. A limitation on the right of the parents to make educational decisions for the child is necessary, and those rights are limited as stated in **Order Designating Educational Rights Holder** (form JV-535) filed in this matter. The educational rights and responsibilities of the educational representative are described in rule 5.650(e) and (f) of the California Rules of Court. A copy of rule 5.650(e) and (f) may be obtained from the court clerk.

CHILD'S NAME:	CASE NUMBER:
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- 16. a. The child's educational needs are are not being met.
- b. The child's physical needs are are not being met.
- c. The child's mental health needs are are not being met.
- d. The child's developmental needs are are not being met.

- 17. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*: .

- 18. The additional services, assessments, and/or evaluations the child requires to meet the unmet needs specified in item 16 or other concerns are
 - a. stated in the social worker's report.
 - b. specified here:

- 19. The following persons are ordered to take the steps necessary for the child to begin receiving the services, assessments, and/or evaluations identified in item 18:
 - a. Social worker
 - b. Parent *(name)*:
 - c. Surrogate parent *(name)*:
 - d. Educational representative *(name)*:
 - e. Other *(name)*:

- 20. The child's education placement has changed since the last review hearing.
 - a. The child's educational records, including any evaluation regarding a disability, were requested by the child's new school within two business days of the request to enroll and those records were provided by the child's former school to the child's new school within two business days of the receipt of the educational records request.
 - b. The child is enrolled in school.
 - c. The child is attending school.

- 21. **Child 14 years of age or older**
 - a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the county agency must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:

- 22. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services (form JV-459(A))* has been completed and is attached.

- 23. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22).
 - (1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) the name of the support person(s) to assist the child is: . The support person's relationship(s) to the child is:
 - (3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

CHILD'S NAME:	CASE NUMBER:
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23. a. (4) to assist the child in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (a) stated on the record.
- (b) as follows:

- b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

24. **Placement and services are ordered as stated in** (check appropriate boxes and attach indicated forms)

- a. *Twenty-Four-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.25)* (form JV-456), which is attached and incorporated by reference.
- b. *Twenty-Four-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.25)* (form JV-457), which is attached and incorporated by reference.

25. **Contact with the child is ordered as stated in** (check appropriate box and attach indicated form)

- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. *Visitation Attachment: Sibling* (form JV-401).
- c. *Visitation Attachment: Grandparent* (form JV-402).

26. **All prior orders not in conflict with this order remain in full force and effect.**

27. **Other findings and orders**

- a. See attached.
- b. (Specify):

28. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept.:	Room:
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- a. In-home status review hearing (Welf. & Inst. Code, § 364)
- b. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
(Also schedule a Welf. & Inst. Code, § 366.3 status review hearing within six months.)

Hearing date:	Time:	Dept.:	Room:
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- c. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- d. Nonminor dependent status review (Welf. & Inst. Code, § 366.31)
- e. Other (specify):

29. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved of the duty to provide further representation.

30. Number of pages attached: _____

Date: _____

Judicial Officer

CHILD'S NAME:

CASE NUMBER:

**TWENTY-FOUR-MONTH PERMANENCY ATTACHMENT:
REUNIFICATION SERVICES TERMINATED
(Welf. & Inst. Code, § 366.25)**

1. By a preponderance of the evidence, the return of the child to **their** parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
2. **The child's out-of-home placement is necessary.**
3. **Reunification services are terminated.**
4. The child is an Indian child or there is reason to know that the child is an Indian child, and as set out in detail in the record,
- affirmative, active, thorough, and timely efforts have have not been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
 - these efforts did did not include assisting the parent(s) or Indian custodian through the steps of the case plan and with accessing or developing the resources necessary to satisfy the case plan;
 - to the maximum extent possible, the efforts were were not provided in a manner consistent with the prevailing social and cultural conditions and way of life of the child's tribe
 - these efforts and the case plan have have not been **conducted** and **developed** to the maximum extent possible in partnership with the Indian child, the parents, extended family members, Indian custodians, and the tribe and utilized the available resources of the Indian child's extended family, tribe, tribal and other Indian social service agencies, and individual Indian caregiver service providers; **and**
 - the active efforts have proved successful unsuccessful.
5. The child is an Indian child or there is reason to know that the child is an Indian child, and
- qualified** expert witness testimony was provided by (*name*): _____ ; and
 - evidence** regarding the prevailing social and cultural practices of the child's tribe was provided; and
 - there is clear and convincing evidence** that continued physical custody by the following person is likely to cause serious emotional or physical damage to the child:

<input type="checkbox"/> Mother	<input type="checkbox"/> Biological father	<input type="checkbox"/> Legal guardian
<input type="checkbox"/> Presumed father	<input type="checkbox"/> Indian custodian	
<input type="checkbox"/> Other (specify):	<input type="checkbox"/> Other (specify):	
6. There has been a change in the child's placement, and the child is an Indian child or there is reason to know that the child is an Indian child. Currently (*choose one*),
- the child is placed with a member of the child's extended family** as defined by 25 U.S.C. § 1903; or
 - a diligent search was made for a placement with a member of the child's extended family**, the efforts are documented in detail in the record, and the child is placed in a foster home licensed, approved, or specified by the Indian child's tribe; or
 - a diligent search was made for a placement with a member of the child's extended family or in a foster home licensed, approved, or specified by the Indian child's tribe**; the efforts are documented in detail in the record; and the child is placed in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - a diligent search was made for a placement with a member of the child's extended family**, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority; the efforts are documented in detail in the record; and the child is placed in an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs; or
 - the child is placed in accordance with the preferences established by the tribe**; or
 - the court finds by clear and convincing evidence that there is good cause to depart from the placement preferences based on the reasons set out in the record.**
7. **The child's current placement is appropriate.**

CHILD'S NAME:	CASE NUMBER:
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- 8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.1(f) when determining the continuing necessity for and appropriateness of the placement.
- 9. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The county agency has has not made reasonable efforts to locate the child.
- 10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
- 11. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.
 - a. The matter is continued to the date and time indicated in form JV-455, item 28, for a written oral report by the county agency on the progress made in locating an appropriate placement.
 - b. Other (specify):
- 12. **The child is placed outside the state of California, and that out-of-state placement**
 - a. continues to be the most appropriate placement for the child and is in the best interest of the child.
 - b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated in form JV-455, item 28 for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (specify):

Selection of permanent plan

- 13. The county agency has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.
- 14. **By clear and convincing evidence, there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child** because the child is not a proper subject for adoption at this time and a potential legal guardian has not been identified.
 - a. The child's permanent plan is permanent placement with (name): _____ a fit and willing relative.
The likely date by which the child's permanent plan will be achieved is (date): _____
 - b. The child is ordered to remain in foster care with a permanent plan of
 - (1) return home.
 - (2) adoption.
 - (3) tribal customary adoption.
 - (4) legal guardianship.
 - (5) placement with a fit and willing relative.
 - c. The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to:
 - return home. establish legal guardianship.
 - place for adoption. place with a relative.
 - Other (specify): _____**The likely date** by which the child's permanent plan will be achieved is (date): _____
 - d. The court finds that the barriers to achieving the child's permanent plans are (describe): _____

CHILD'S NAME:	CASE NUMBER:
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15. **For a child 16 years of age or older placed in another planned permanent living arrangement:**

- a. The court asked **the child** where the child wants to live, and the child provided the following information (*describe*):

- b. The court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because (*describe*):

- c. The compelling reasons why the other permanent plan options are not in the child's best interest are (*describe*):

16. a. **The matter is ordered set for hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.**

- b. By clear and convincing evidence, reasonable services have been provided or offered to the child's parents, legal guardian, or Indian custodian.
- c. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.25(b).
- d. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing a notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record* (form JV-820), and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court must provide written notice as stated in rule 5.590(b)(2) of the California Rules of Court to any party not present.
- e. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, placement with a fit and willing relative, or another planned permanent living arrangement, or, in the case of an Indian child, **in consultation with the child's tribe**, tribal customary adoption for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to their usual place of residence or business only.
- f. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below, who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under **Family Code, § 8700**, or an alleged father who has denied paternity and has executed section 2 of *Statement Regarding Parentage* (form JV-505).
 - (1) (*name*):
 - (2) (*name*):
 - (3) (*name*):
 - (4) (*name*):
- g. **The likely date** by which the child may be placed for adoption, tribal customary adoption, legal guardianship, or with a fit and willing relative is (*date*):

CHILD'S NAME:	CASE NUMBER:
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Important individuals

17. **Child is 10 years of age or older**
- a. The county agency has made **reasonable** efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - b. The county agency has not made **reasonable** efforts to identify individuals who are important to the child and to maintain the child's relationships with those individuals, consistent with the child's best interest.
 - c. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the county agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

Health

18. The mother biological father Indian custodian
 presumed father legal guardian Other (*specify*):
 Other (*specify*):
- is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county agency.

CHILD'S NAME:	CASE NUMBER:
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STATUS REVIEW ATTACHMENT: SEXUAL AND REPRODUCTIVE HEALTH SERVICES
 (Welf. & Inst. Code, §§ 366(a)(1)(F), 727.2(e)(7))

1. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, the social worker or probation officer has done all of the following:
 - a. Verified that the child has received comprehensive sexual health education that meets the requirements of Education Code section 51930 et seq. through the school system or has ensured that the child will receive the instruction.
 - b. Informed the child that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
 - c. Informed the child, in an age and developmentally appropriate manner, of the child's right to consent to sexual and reproductive health services and the child's confidentiality rights regarding those services.
 - d. Informed the child how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

2. The social worker or probation officer is ordered to complete any of the above requirements that have not been completed.

3. Other orders:

NONMINOR'S NAME:	CASE NUMBER:
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DISPOSITIONAL ATTACHMENT: NONMINOR DEPENDENT

1. Reasonable efforts were were not made to prevent or eliminate the need for the nonminor's removal from the home.
2. Placement and care are vested with the county agency.
3. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.
4. The nonminor dependent who is an Indian child has has not chosen to have the Indian Child Welfare Act apply to them as a nonminor dependent.
5. There was no inquiry or determination of whether the nonminor dependent was an Indian child before the nonminor dependent's 18th birthday.
 - a. The nonminor dependent requests an Indian Child Welfare Act determination. The county agency is ordered to comply with rule 5.481 of the California Rules of Court.
 - b. The nonminor dependent does not request an Indian Child Welfare Act determination.
6. Family reunification services are ordered under Welf. & Inst. Code, § 361.6.
 - a. The nonminor dependent and parents or guardians are in agreement with court-ordered family reunification services.
 - b. The provision of family reunification services is in the best interests of the nonminor dependent.
 - c. There is a substantial probability that the nonminor dependent will be able to safely reside in the home of the parent or guardian by the next review hearing.
7. The nonminor dependent is placed in a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 361.22 was held on or is set for (date):

THE COURT MUST CONSIDER THE FOLLOWING FINDINGS AND ORDERS AFTER THE NONMINOR DISPOSITION HEARING OR AFTER A NONMINOR DEPENDENT STATUS REVIEW HEARING WITHIN 60 DAYS

8. a. The nonminor dependent's continued placement is necessary.
 - b. The nonminor dependent's continued placement is no longer necessary.
9. a. The nonminor dependent's current placement is appropriate.
 - b. The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. For a nonminor dependent placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.31(b)(4) when determining the continuing necessity for and appropriateness of the placement.
11. The nonminor dependent's Transitional Independent Living Case Plan includes a plan to satisfy at least one of the criteria in Welf. & Inst. Code, § 11403(b) to remain in foster care under juvenile court jurisdiction as indicated below:
 - a. Attending high school or a high school equivalency certificate (GED) program.
 - b. Attending a college, community college, or vocational education program.
 - c. Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - d. Employed at least 80 hours per month.
 - e. The nonminor is incapable of attending a high school, high school equivalency certificate (GED) program, college, community college, vocational education program, or an employment program or activity, or working 80 hours per month because of a medical condition.
12. The county agency has has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in Welf. & Inst. Code, § 11403(b).
13. The nonminor dependent was was not provided with the information, documents, and services required under Welf. & Inst. Code, § 391.

NONMINOR'S NAME:	CASE NUMBER:
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- 14. The Transitional Independent Living Case Plan was was not developed jointly by the nonminor dependent and the county agency.
- 15. The nonminor dependent has elected to have the Indian Child Welfare Act apply; the representative from their tribe was was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
- 16. The nonminor dependent's Transitional Independent Living Case Plan does does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what they need to achieve successful adulthood and sets out benchmarks that indicate how both the county agency and the nonminor dependent will know when independence can be achieved.
- 17. The nonminor dependent's Transitional Independent Living Case Plan does does not include appropriate and meaningful independent living skill services that will help the nonminor transition from foster care to successful adulthood.
- 18. The county agency has has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the nonminor's permanent plan and prepare them for independence.
- 19. For a permanent plan of another planned permanent living arrangement, the county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
- 20. The nonminor dependent did did not sign and receive a copy of the Transitional Independent Living Case Plan.
- 21. The county agency has has not made reasonable efforts to maintain relationships between the nonminor dependent and individuals who are important to the nonminor, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
- 22. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been excellent satisfactory minimal.
- b. The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in their efforts to attain those goals were stated on the record.
- 23. The county agency has has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with siblings who are under juvenile court jurisdiction.
- 24. The likely date by which the nonminor dependent is anticipated to achieve successful adulthood is:
- 25. The nonminor dependent's permanent plan is
 - a. to return home.
 - b. adoption.
 - c. tribal customary adoption.
 - d. placement with a fit and willing relative.
 - e. another planned permanent living arrangement.
 - f. Other (*specify*):
- 26. For a permanent plan of another planned permanent living arrangement,
 - a. the court has asked the nonminor dependent about their desired permanency outcome.
 - b. the court has considered the evidence before it and finds another planned permanent living arrangement is the best permanent plan because
 - (1) the nonminor is 18 or older.
 - (2) Other (*specify*):

NONMINOR'S NAME:	CASE NUMBER:
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26. c. The compelling reason(s) why other permanent plan options are not in the nonminor's best interest are that

- (1) the nonminor wants to live independently.
 (2) Other (specify):

27. Family reunification services are ordered under Welf. & Inst. Code, § 361.6.

- a. The county agency has has not complied with the case plan by making reasonable efforts—or in the case of an Indian child, active efforts, as described in Welf. & Inst. Code, § 361.7—to create a safe home for the nonminor dependent to reside in or to complete whatever steps are necessary to finalize the permanent placement of the nonminor.
- b. The extent of progress that the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care has been excellent satisfactory minimal none.
- c. The likely date by which the nonminor dependent may safely reside in the family home or achieve independence or, for a youth who has chosen to have the Indian Child Welfare Act apply, in consultation with the child's tribe, be placed for tribal customary adoption is (date):

28. a. The social worker has done all of the following:

- (1) Verified that the nonminor dependent has received comprehensive sexual health education that meets the requirements of Education Code section 51930 et seq. through the school system or has ensured that the nonminor will receive the instruction.
- (2) Informed the nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care, including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
- (3) Informed the nonminor dependent, in an age and developmentally appropriate manner, of their right to consent to sexual and reproductive health services and their confidentiality rights regarding those services.
- (4) Informed the nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.

b. The social worker is ordered to complete any of the above requirements that have not been completed.

29. a. Under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),

- (1) an individual or individuals have been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
- (2) the name of the support person(s) to assist the nonminor dependent is:
 The support person's relationship(s) to the nonminor dependent is:
- (3) an individual or individuals have not been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
- (4) to assist the nonminor dependent in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (A) stated on the record.
- (B) as follows:

b. The nonminor dependent has stated that they do not want to pursue postsecondary education, including career or technical education.

30. It appears that juvenile court jurisdiction over the nonminor dependent may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.

31. The nonminor dependent has elected not to remain in foster care. A hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court within 30 days is ordered.

NONMINOR'S NAME:	CASE NUMBER:
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32. **Other findings and orders**

a. See [attachment 32a](#).

b. (Specify):

33. The next hearings are scheduled as follows:

a. Nonminor dependent status review hearing (Welf. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903)

Hearing date:	Time:	Dept:	Room:
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b. Hearing to consider termination of jurisdiction (Welf. & Inst. Code, § 391; Cal. Rules of Court, rule 5.555)

Hearing date:	Time:	Dept:	Room:
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c. Other (specify):

Hearing date:	Time:	Dept:	Room:
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34. Number of pages attached: _____

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-462.v10.081322.cz	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
NONMINOR'S NAME: NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME:		
FINDINGS AND ORDERS AFTER NONMINOR DEPENDENT STATUS REVIEW HEARING	CASE NUMBER:	
Judicial Officer:	Court Clerk:	Court Reporter:
Bailiff:	Other Court Personnel:	Interpreter: Language:

- | | | | |
|---------------------------------|--------------------------|----------------------|--------------------------|
| 1. Party name | Present | Attorney name | Present |
| a. Nonminor dependent: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |
2. Tribal representative (name):
3. Others present in courtroom
- a. Other (specify):
- b. Other (specify):
- c. Other (specify):
- d. Other (specify):
4. **The court has read and considered and admits into evidence**
- a. report of social worker dated:
- b. report of probation officer dated:
- c. Other (specify):
- d. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

5. Notice of the date, time, and location of the hearing was given as required by law.
6. The nonminor dependent's continued placement is necessary.
7. The nonminor dependent's continued placement is no longer necessary.
8. The nonminor dependent's current placement is appropriate.
9. The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
10. For a nonminor dependent placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 366.31(b)(4) or § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.

NONMINOR'S NAME:	CASE NUMBER:
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11. The nonminor dependent's Transitional Independent Living Case Plan includes a plan for them to satisfy at least one of the criteria in Welf. & Inst. Code, § 11403(b) to remain in foster care under juvenile court jurisdiction as indicated below:
- Attending high school or a high school equivalency certificate (GED) program.
 - Attending a college, a community college, or a vocational education program.
 - Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - Employed at least 80 hours per month.
 - The nonminor dependent is not able to attend a high school, a high school equivalency certificate (GED) program, a college, a community college, a vocational education program, or an employment program or activity or to work 80 hours per month due to a medical condition.
12. The county agency has has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in Welf. & Inst. Code, § 11403(b).
13. The nonminor dependent was was not provided with the information, documents, and services as required under Welf. & Inst. Code, § 391.
14. The Transitional Independent Living Case Plan was was not developed jointly by the nonminor dependent and the county agency.
15. For the nonminor dependent who has elected to have the Indian Child Welfare Act continue to apply, the representative from their tribe was was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
16. The nonminor dependent's Transitional Independent Living Case Plan does does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what they need to achieve successful adulthood and set out benchmarks that indicate how both the county agency and nonminor dependent will know when successful adulthood can be achieved.
17. The nonminor dependent's Transitional Independent Living Case Plan does does not include appropriate and meaningful independent living skill services that will help the youth transition from foster care to successful adulthood.
18. The county agency has has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare them for independence.
19. The county agency has has not made ongoing and intensive efforts to finalize the permanent plan.
20. The nonminor dependent did did not sign and receive a copy of their Transitional Independent Living Case Plan.
21. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been excellent satisfactory minimal.
- b. The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in their efforts to attain those goals were stated on the record.
22. The county agency has has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the agency has has not been evaluated.
23. The county agency has has not made reasonable efforts to maintain relationships between the nonminor dependent and individuals who are important to them, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
24. The county agency has has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with their siblings who are under juvenile court jurisdiction.
25. The likely date by which it is anticipated the nonminor dependent will achieve successful adulthood is:

NONMINOR'S NAME:	CASE NUMBER:
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26. It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.
27. At a hearing under rule 5.555 of the California Rules of Court held on the date below, the juvenile court entered the findings and orders as recorded on the *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367), and juvenile court jurisdiction is terminated under those findings and orders.
28. Juvenile court jurisdiction over the youth as a nonminor dependent is continued and
- a. the youth's permanent plan is
 - (1) return home.
 - (2) adoption.
 - (3) tribal customary adoption.
 - (4) placement with a fit and willing relative.
 - (5) another planned permanent living arrangement.
 - (6) Other (*specify*):
 - b. For nonminors placed in another planned permanent living arrangement, the court has considered the evidence before it and finds that another planned permanent living arrangement is still the best permanent plan because
 - (1) the nonminor is 18 or older.
 - (2) Other (*specify*):

The compelling reasons why other permanent plan options are not in the nonminor's best interest are

 - (1) the nonminor wants to live independently.
 - (2) Other (*specify*):
 - c. Family reunification services are continued.
 - d. The matter is continued for a hearing set under Welf. & Inst. Code, § 366.31, and rule 5.903 of the California Rules of Court within the next six months.

29. a. The social worker or probation officer has done all of the following:
- (1) Verified that the nonminor dependent has received comprehensive sexual health education that meets the requirements of Education Code section 51930 et seq. through the school system or has ensured that the nonminor will receive the instruction.
 - (2) Informed the nonminor dependent that they may access age-appropriate, medically accurate information about reproductive and sexual health care including but not limited to unplanned pregnancy prevention, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections.
 - (3) Informed the nonminor dependent, in an age and developmentally appropriate manner, of the nonminor's right to consent to sexual and reproductive health services and the nonminor's confidentiality rights regarding those services.
 - (4) Informed the nonminor dependent how to access reproductive and sexual health care services and facilitated access to that care, including by assisting with any identified barriers to care, as needed.
- b. The social worker or probation officer is ordered to complete any of the above requirements that have not been completed and to submit to the court an updated case plan within 30 days of the date of this hearing.
30. a. Under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),
- (1) an individual or individuals have been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.
 - (2) the name of the support person(s) to assist the nonminor dependent is:
The support person's relationship(s) to the nonminor dependent is:
 - (3) an individual or individuals have not been identified to assist the nonminor dependent with applications for postsecondary education, including career and technical education, and related financial aid.

NONMINOR'S NAME:	CASE NUMBER:
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30. a. (4) to assist the nonminor dependent in preparing for postsecondary education, the county agency must add to the case plan and provide the services
- (A) stated on the record.
- (B) as follows:
- b. The nonminor dependent has stated that they do not want to pursue postsecondary education, including career or technical education.
31. All prior orders not in conflict with this order remain in full force and effect.
32. Other findings and orders
- a. See attachment 32a.
- b. (Specify):
33. Additional findings and orders for nonminor dependent with case plan of continued family reunification services
- a. The agency has has not complied with the case plan by making reasonable efforts to create a safe home for the nonminor dependent to reside in and to complete whatever steps are necessary to finalize the permanent plan.
- b. The extent of progress made toward alleviating or mitigating the causes necessitating the current out-of-home placement has been
- (1) by the father:
- (2) by the mother:
- (3) by the nonminor:
- (4) Other (specify):
- (5) Other (specify):
- c. The likely date by which the nonminor dependent may safely reside in the family home or achieve independence or, for a youth who has chosen to have the Indian Child Welfare Act apply, in consultation with the child's tribe, be placed for tribal customary adoption is (date):
- d. (1) The nonminor can safely reside in the family home and may return to the family home.
- (a) The court maintains jurisdiction under Welf. & Inst. Code, § 303(a), and a review hearing under Welf. & Inst. Code, § 366.31 is ordered.
- (b) It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under Welf. & Inst. Code, § 391 and rule 5.555 of the California Rules of Court is ordered.
- (2) The nonminor cannot safely reside in the family home, and reunification services are continued.
- (a) The nonminor dependent and parent(s) or guardian(s) are in agreement with the continuation of reunification services.
- (b) Continued reunification services are in the best interest of the nonminor dependent.
- (c) There is a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
- (d) The matter is continued for a review hearing under Welf. & Inst. Code, § 366.31 and rule 5.903 of the California Rules of Court within the next six months.
- (3) Reunification services are terminated (check all that apply).
- (a) The nonminor cannot safely reside in the family home.
- (b) The nonminor dependent and parent(s) or guardian(s) are not in agreement with the continuation of reunification services.
- (c) Continued reunification services are not in the best interest of the nonminor dependent.
- (d) There is not a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
- (e) The time frame for court-ordered reunification services exceeds the time frames as stated in Welf. & Inst. Code, § 361.5.

NONMINOR'S NAME:	CASE NUMBER:
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34. Additional findings and orders for nonminor residing in the home of a parent or former legal guardian
- a. (1) It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under **Welf. & Inst. Code, § 391** and rule 5.555 of the California Rules of Court is ordered.
- (2) Court supervision and juvenile court jurisdiction continues to be necessary. The court maintains jurisdiction under **Welf. & Inst. Code, § 303(a)**. The matter is continued for a review hearing under Welf. & Inst. Code, § 366.31 and rule 5.903 of the California Rules of Court within the next six months.
- b. The county agency has has not complied with the case plan by making reasonable efforts to maintain a safe family home for the nonminor.
- c. The county agency has has not complied with the nonminor's Transitional Independent Living Case Plan, including efforts to prepare the nonminor for successful adulthood.

35. The next hearings are scheduled as follows:

- a. Nonminor dependent status review hearing (**Welf. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903**)

Hearing date:	Time:	Dept:	Room:
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- b. Hearing to consider termination of jurisdiction (**Welf. & Inst. Code, § 391; Cal. Rules of Court, rule 5.555**).

Hearing date:	Time:	Dept:	Room:
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- c. Other (*specify*):

Hearing date:	Time:	Dept:	Room:
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36. Number of pages attached: _____

Date: _____

Judicial Officer

CHILD'S NAME:	CASE NUMBER:
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10. d. The court finds that the child is an Indian child and a member or a citizen of, or eligible for membership in the (specify tribe): _____ tribe.

11. The mother father legal guardian Indian custodian
 Other (specify): _____

were provided with Parental Notification of Indian Status (form ICWA-020) and ordered to complete the form and submit it to the court before leaving the courthouse today.

12. The court advised the child and parent or guardian of (check all that apply)

- a. the contents of the petition.
- b. the nature and possible consequences of juvenile court proceedings.
- c. the purpose and scope of the initial hearing.
- d. the hearing rights described in rule:
- e. the reason the child was taken into custody.
- f. the parent or legal guardian's financial obligation and right to be represented by counsel.
- g. Other:

13. Reading of the petition and advice of rights were waived by the child the child's counsel.

14. The prosecutor has requested that a hearing be set to determine whether the child should be transferred to the jurisdiction of the criminal court under Welf. & Inst. Code, § 707.

15. The child through counsel

- a. denied the allegations of the petition dated:
- b. asked the court to take no action on the petition at this time.

16. For the reasons stated on the record, the petition is dismissed in the interests of justice because the child does not need treatment or rehabilitation.

17. After inquiry, the court finds that the child understands the nature of the allegations and the direct consequences of admitting or pleading no contest to the allegations of the petition, and understands and waives the following hearing rights, which were explained (check all that apply):

- a. The right to have a hearing.
- b. The right to cross-examine and confront witnesses.
- c. The right to subpoena witnesses and present a defense.
- d. The right to remain silent.

18. a. The child through counsel

- (1) admitted the petition as filed as amended on (date):
- (2) pleaded no contest to the petition as filed as amended on (date):

- b. The child's counsel consents to the admission or plea of no contest.
- c. The admission or plea of no contest is freely and voluntarily made.
- d. There is a factual basis for the admission or plea of no contest.
- e. The court finds that the child was under 14 years old at the time of the offense but the child knew the wrongfulness of their conduct at the time the offense was committed.

19. a. The following allegations are admitted and found to be true:

Count number	Statutory violation	Misdemeanor	Felony	To be specified at disposition	Enhancement (if applicable)
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

CHILD'S NAME:	CASE NUMBER:
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19. b. As to any offense that could be considered a misdemeanor or felony, the court is aware of and exercises its discretion to determine the offense, as stated in 19a.
- c. The following allegations are dismissed:
- | | |
|--------------|---------------------|
| Count number | Statutory violation |
|--------------|---------------------|
20. The child is described by section 601 602 of the Welf. & Inst. Code.
21. The maximum confinement time is:
22. The child's residence is in: _____ County.
23. The matter is transferred to: _____ County for disposition and further proceedings. *Juvenile Court Transfer-Out Orders* (form JV-550) will be completed and transmitted immediately.
24. The child waives their right under *People v. Arbuckle* to have the disposition heard by this judicial officer.

CHILD IN CUSTODY

25. The court has considered the detention report prepared by the probation department
 and the following documents (*specify*):
 and the testimony of (*name*):
 and the examination by the court of (*name*):
 and takes judicial notice of the entire court file.
26. The child is released from custody to the home of (*name, address, and relationship to child*):
 on home supervision on electronic monitoring
 the terms of which are stated in the attached *Terms and Conditions* (form JV-624).
27. The child is a dependent of the court under Welf. & Inst. Code, § 300 and is ordered released from custody. The child welfare services department must either ensure that the child's current caregiver take physical custody of the child or take physical custody of the child and place the child in a licensed or approved placement.
28. A prima facie showing has been made that the child's disposition is by Welf. & Inst. Code, § 601 or § 602.
29. Based on the facts stated on the record, the child is detained in secure custody on the following grounds (*check all that apply*):
- a. The child has violated an order of the court.
 - b. The child has escaped from a court commitment.
 - c. The child is likely to flee the jurisdiction of the court.
 - d. It is a matter of immediate and urgent necessity for the protection of the child.
 - e. It is reasonably necessary for the protection of the person or property of another.
30. Based on the facts stated on the record, continuance in the child's home is contrary to the child's welfare.
31. Based on the facts stated on the record, there are no available services that would prevent the need for further detention.
32. Temporary placement and care is the responsibility of the probation department.
33. The child is placed in a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 727.12 will be set or is set for (*specify date*): _____, which is a date within 45 days of the start of the placement.
34. The probation department is granted the authority to authorize medical, surgical, or dental care under Welf. & Inst. Code, § 739.
35. The probation department is ordered to provide services that will assist with reunification of the child and the family.

CHILD'S NAME:	CASE NUMBER:
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36. The child and the parent or guardian have been advised that if the child cannot be returned home within the statutory timelines, a proceeding may be scheduled to determine an alternative permanent home, including an adoptive home after parental rights are terminated.
37. The mother father legal guardian Indian Custodian is/are ordered to supply the names and contact information of adult relatives to the probation department so they can be notified of the child's removal and of their options to be included in the child's life.
38. The probation officer must file a case plan within 60 days.
39. The probation department is authorized to release the child at its discretion under the following circumstances:
40. The court accepts transfer from the County of:
41. Other orders:
42. Child Counsel waives time for *(check all that apply)*
 jurisdiction hearing disposition hearing Other:
43. **The next hearings will be**
- | | | | |
|-------|-------|-------|------------------|
| Date: | Time: | Dept: | Type of hearing: |
| Date: | Time: | Dept: | Type of hearing: |
44. The child
- a. is ordered to return to court on the above date(s) and time(s).
- b. remains detained.
45. All prior orders not in conflict, including any terms and conditions of probation, remain in full force and effect.
46. All appointed counsel are relieved.

Date: _____

Judicial Officer

Countersignature for detention orders *(if necessary)*: _____

Date: _____

Judge

CHILD'S NAME:	CASE NUMBER:
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7. e. The child is ordered to obey all reasonable directives of placement staff and **probation officer**. The child is not to leave placement without the permission of **probation officer** or placement staff.
- f. Pending placement, the child is detained in juvenile hall. If being housed in another county, please specify county:
- g. The child is placed on home supervision in the home of
- (1) parent (*name*): mother father
- (2) parent (*name*): mother father
- (3) legal guardian (*name*):
- (4) **Other (*name and address*):**
- (5) **Other (*name and address*):**
- and is subject to electronic monitoring.
- h. The parent or legal guardian must cooperate in the completion and signing of necessary documents to qualify the child for any medical or financial benefits to which the child may be entitled.
- i. The county is authorized to pay for care, maintenance, clothing, and incidentals at the approved rate.
- j. The likely date by which the child may be returned to and safely maintained in the home or another permanent plan selected is (*date*):
- k. The right of the parent or guardian to make educational decisions for the child is specifically limited. *Order Designating Educational Rights Holder* (form JV-535) will be completed and transmitted.
8. **The care, custody, and control of the child has been ordered to be under the supervision of the probation officer for foster care placement under Welf. & Inst. Code, § 727(a). Consistent with Welf. & Inst. Code, § 726.4, the court has inquired of the mother and any other appropriate person as to the identity and address of all presumed or alleged fathers.**
9. The child has been ordered into a placement described by title IV-E of the Social Security Act.
- a. The date the child entered foster care is: _____, which is 60 days after the day the child was removed from **their** home.
- b. An exception applies to the standard calculation of the date **the child** entered foster care because
- (1) the child has been detained for more than 60 days. Therefore, the date the child entered foster care is today's date of: _____.
- (2) the child has been in a ranch, camp, or other institution for more than 60 days and is now being ordered into an eligible placement. The date the child enters foster care will be the date **the child** is moved into the eligible placement facility, which is anticipated to be: _____.
- (3) at the time the wardship petition was filed, the child was a dependent of the juvenile court and in an out-of-home placement. Thus, the date entered foster care is unchanged from the date the child entered foster care in dependency court. That date is: _____.
10. The child is committed to the care, custody, and control of the probation **department** for placement in the county juvenile ranch camp or forestry camp:
- a. for: _____ months _____ days.
- b. until the requirements of the program **have** been satisfactorily completed.
11. **If being housed in another county, please specify:**

CHILD'S NAME:	CASE NUMBER:
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12. The minor is placed in a short-term residential therapeutic program or community treatment facility. A hearing to review the placement under Welf. & Inst. Code, § 727.12 was held on or is set for (date):

Date:



Judicial Officer

CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER SIX-MONTH PREPERMANENCY HEARING—DELINQUENCY

1. **The court has read and considered and admits into evidence**

- a. report of probation department dated:
 b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

2. a. Notice of the date, time, and location of the hearing was given as required by law.
 b. **For child who is not present**, the child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
 b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. The probation department has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
6. The child's out-of home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
 b. The child's current placement is not appropriate. This hearing is continued for a report by the probation officer on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.
9. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The probation officer has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California, and that out-of-state placement
 a. continues to be the most appropriate placement and is in the child's best interest.
 b. is no longer the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by the probation officer on the progress made toward finding an appropriate placement for the child.
12. The probation officer has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child, and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan.
13. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.
14. **The child has no known Indian heritage.**

CHILD'S NAME:	CASE NUMBER:
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21. b. The participation by the following is deemed by the court to be inappropriate or potentially detrimental to the child and their participation with the child in a counseling or education program is NOT ordered:
 Mother Father Legal guardian Other (specify):
 Other (specify):
22. The child has siblings under the court's jurisdiction and all of the siblings are **not** placed together in the same home.
a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children. No visitation is ordered.
23. Visitation with the child is ordered:
a. As **stated** in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
b. As follows (specify):

Health and education

24. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (date):
25. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
26. The parents legal guardians Other (specify): are unable unwilling unavailable Indian custodian to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under **Welf. & Inst. Code, § 739** and vested with the probation department.
27. A limitation on the parents legal guardians Other (specify): to make educational decisions for the child
a. is **not** necessary. The parents or legal guardians hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).
b. is necessary. Those rights are limited as ordered and as **stated** in *Order Designating Educational Rights Holder* (form JV-535).
28. The child's school placement has changed since the dispositional hearing.
a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days.
b. The child is enrolled in attending school.
29. a. The child is 16 years of age or older, and under the requirements of **Welf. & Inst. Code, § 16501.1(g)(22)**,
(1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
(2) the name of the support person(s) to assist the child is:
The support person's relationship(s) to the child is:
(3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.
(4) to assist the child in preparing for postsecondary education, the probation department must add to the case plan and provide the services
(A) stated on the record.
(B) as follows:
b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

CHILD'S NAME:	CASE NUMBER:
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Parentage

30. a. The court inquired of the mother others (*names and relationships*):

as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete the form and submit it to the court.

b. The court clerk probation department shall provide the notice required by **Welf. & Inst. Code, § 726.4** to

(1) alleged father (*name*):

(2) alleged father (*name*):

Advisement

31. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under **Welf. & Inst. Code, § 727.31** to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

32. **All prior orders not in conflict with this order remain in full force and effect.**

33. Other findings and orders:

a. See attached.

b. (*Specify*):

34. The date the child entered foster care is (*specify*):

35. **The next hearing will be**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

36. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

37. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of **their** attorney who can assist with sealing records.

38. Number of pages attached:

Date: _____
Judicial Officer

CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER PERMANENCY HEARING—DELINQUENCY

12-MONTH 18-MONTH (only if reunification services extended at 12 months)

1. The court has read and considered and admits into evidence

- a. report of probation officer dated:
- b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

2. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For child who is not present,** the child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. The probation department has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. By a preponderance of the evidence, the return of the child to their parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The factual basis for this conclusion is stated on the record.
6. The child's out-of-home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
- b. The child's current placement is not appropriate. This hearing is continued for a report by the probation officer on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under Welf. & Inst. Code, § 706.5(c)(1)(B) when determining the continuing necessity for and appropriateness of the placement.
9. The child has left their placement, and their whereabouts are unknown. Out-of-home placement continues to be necessary. The placement was was not appropriate. The probation officer has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California, and that out-of-state placement
- a. continues to be the most appropriate placement and is in the child's best interest.
- b. is no longer, the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by the probation officer on the progress made toward finding an appropriate placement for the child.
12. The probation officer has has not complied with the case plan by making reasonable efforts to return the child to a safe home through the provision of reasonable services designed to aid in overcoming the problems that led to the initial removal and continued custody of the child, and by making reasonable efforts to complete whatever steps are necessary to finalize the permanent plan.
- For a child 16 years of age or older in another planned permanent living arrangement, the court finds that the probation department has has not made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan:

CHILD'S NAME:	CASE NUMBER:
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13. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.

14. **The child has no known Indian heritage.**

15. The following persons have made the indicated level of progress toward alleviating or mitigating the causes necessitating placement:

	None	Minimal	Adequate	Substantial	Excellent
a. <input type="checkbox"/> Child	<input type="checkbox"/>				
b. <input type="checkbox"/> Mother	<input type="checkbox"/>				
c. <input type="checkbox"/> Father	<input type="checkbox"/>				
d. <input type="checkbox"/> Legal guardian	<input type="checkbox"/>				
e. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>				
f. <input type="checkbox"/> Other (specify):	<input type="checkbox"/>				

16. a. Reunification services are continued (Welf. & Inst. Code, § 727.3(b)(2)).

(1) There is a substantial probability that the child may be returned to the mother father legal guardian Other (specify): _____ by the date set for the 18-month permanency hearing because the mother father legal guardian Other (specify): _____ and the child have demonstrated the capacity and ability to complete the objectives of the case plan. Reunification services are continued to the mother father legal guardian Other (specify): _____

(2) The probation department has not provided reasonable services to the mother father legal guardian Other (specify): _____
The services provided have been inadequate in that (explain): _____

(3) The probation department is ordered to provide reasonable reunification services to the mother father legal guardian Other (specify): _____

b. Reunification services are terminated.

(1) The probation department has provided or offered reasonable services, but the mother father legal guardian Other (specify): _____ has not participated regularly and has not demonstrated the capacity and ability to complete the objectives of the case plan. Reunification services are terminated.

(2) The probation department has provided or offered reasonable services but there is not a substantial probability that the child may be returned to the mother father legal guardian Other (specify): _____ by the date set for the 18-month review. Reunification services are terminated.

(3) **At 18-month review:** Reunification services are terminated because it has been 18 months since the date the child was originally removed from the physical custody of their parent or legal guardian.

(4) The probation department has has not exercised due diligence to locate an appropriate relative with whom the child could be placed. Each relative whose name has been submitted to the department has has not been evaluated.

17. a. **The following is appropriate and ordered as the permanent plan:**

(1) The child is returned home immediately.

(2) Continuation of reunification services and setting of a further permanency hearing. If the child is not returned home at the next permanency hearing, the court will set a hearing that could result in the termination of parental rights and the adoption of the child.

CHILD'S NAME:	CASE NUMBER:
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17. a. (3) Adoption. A hearing under **Welf. & Inst. Code, § 727.31** is scheduled for *(date)*:
and an adoption assessment report is ordered.
- (4) Legal guardianship.
- b. The court finds by clear and convincing evidence that *(name of child)*: is not a proper subject for adoption and there is no one willing to accept legal guardianship. The permanent plan is
- (1) permanent placement with *(name)*, a fit and willing relative.
- (2) placement in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative.
- c. Another planned permanent living arrangement. The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
- return home. establish legal guardianship. place for adoption.
- place with a relative. emancipation.
- Other *(specify)*:
18. a. **The likely date** by which the permanent plan will be achieved is: .
- b. **The likely date** by which the child may be returned to and safely maintained in the home or another permanent plan selected is: . (Use this finding only when the court continues reunification services under item **16a.**)
- c. The court finds that the barriers to achieving the child's permanent plan are *(describe)*:

For child 16 years of age or older placed in another planned permanent living arrangement,

19. a. the court asked the child where **they want** to live, and the child provided the following information *(describe)*:
- b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe)*:
- c. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

CHILD'S NAME:	CASE NUMBER:
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Case planning and visitation

20. **The child is 14 years of age or older.**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
 - b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
 - c. To assist the child in making the transition to successful adulthood, the probation department must add to the case plan and provide the services
 - (1) stated on the record.
 - (2) as follows:
21. a. The following were actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other: _____ Other: _____
- b. The following were **not** actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other: _____ Other: _____
 The probation officer is ordered to actively involve them and submit an updated case plan within 30 days from today.
- c. The following were **not** actively involved in the case plan development, including the plan for permanent placement:
 Child Mother Father Legal guardian Tribal representative
 Other: _____ Other: _____
 The probation officer is not required to involve them because they are unable, unavailable, or unwilling to participate.
22. The court finds that the child's
- a. developmental needs are are not being met.
 - b. mental health needs are are not being met.
 - c. physical needs are are not being met.
 - d. education needs are are not being met.
23. The additional services, assessments, and/or evaluations the child requires, and the person or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations, are
- a. stated on the record.
 - b. as follows:
24. a. The following are ordered by the court to participate with the child in a counselling or education program as directed by the probation officer: Mother Father Legal guardian
 Other (specify): _____
- b. The participation by the following is deemed by the court to be inappropriate or potentially detrimental to the child, and their participation with the child in a counseling or education program is **not** ordered:
 Mother Father Legal guardian Other (specify): _____
25. The child has siblings under the court's jurisdiction, and all of the siblings are **not** placed together in the same home.
- a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
 - b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children for the following reasons (*state reasons*):

 No visitation is ordered.
26. Visitation with the child is ordered:
- a. As stated in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
 - b. As follows (specify): _____

CHILD'S NAME:	CASE NUMBER:
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Health and education

27. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on *(date)*:

28. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.

29. The parents legal guardians *Other (specify):* _____ are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under *Welf. & Inst. Code, § 739* and vested with the probation department.

30. A limitation on the parents legal guardians *Other (specify):* _____ to make educational decisions for the child

a. is not necessary. The parents or legal guardian hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).

b. is necessary. Those rights are limited as ordered and as *stated* in *Order Designating Educational Rights Holder* (form JV-535).

31. The child's school placement has changed since the last hearing.

a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days since the placement change.

b. The child is enrolled in attending *(specify school):* _____

32. a. The child is 16 years of age or older, and under the requirements of *Welf. & Inst. Code, § 16501.1(g)(22)*,

(1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(2) the name of the support person(s) to assist the child is: _____
The support person's relationship(s) to the child is: _____

(3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(4) to assist the child in preparing for postsecondary education, the probation department must add to the case plan and provide the services

(A) stated on the record.

(B) as follows: _____

b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

Parentage

33. a. The court inquired of the mother others *(names and relationships)*: _____

as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete and submit the form to the court.

b. The court clerk probation department shall provide the notice required by *Welf. & Inst. Code, § 726.4* to

(1) alleged father *(name)*: _____

(2) alleged father *(name)*: _____

CHILD'S NAME:	CASE NUMBER:
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Advisement

34. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under **Welf. & Inst. Code, § 727.31** to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

35. **All prior orders not in conflict with this order remain in full force and effect.**

36. Other findings and orders:

a. See attached.

b. (Specify):

37. The date the child entered foster care is (specify):

38. **The next hearing will be**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

39. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

40. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of **their** attorney who can assist with sealing records.

41. Number of pages attached:

Date: _____ **Judicial Officer**

CHILD'S NAME:	CASE NUMBER:
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FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING—DELINQUENCY**1. The court has read and considered and admits into evidence**

- a. report of probation officer dated:
 b. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

2. a. Notice of the date, time, and location of the hearing was given as required by law.
 b. **For child who is not present:** The child received proper notice of their right to attend the hearing and voluntarily gave up that right to attend this hearing.
3. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
 b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.

Child returned home

4. The return of the child to their parent or legal guardian would not create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. Out-of-home placement is no longer necessary or appropriate. The probation department has complied with the case plan by making reasonable efforts to return the child safely home and to complete whatever steps are necessary to finalize the permanent placement of the child.

Child remaining in out-of-home placement

5. Continued out-of-home care is in the best interest of the child. Reunification services are terminated.
6. The child's out-of-home placement is necessary.
7. a. The child's out-of-home placement is appropriate.
 b. The child's current placement is not appropriate. This hearing is continued for a report by the probation officer on the progress made to locate an appropriate placement.
8. For a child placed in a short-term residential therapeutic program or community treatment facility, the court has considered the evidence and documentation submitted under **Welf. & Inst. Code, § 706.5(c)(1)(B)** when determining the continuing necessity for and appropriateness of the placement.
9. The child is missing or has run away from placement. Out-of-home placement continues to be necessary. The placement was was not appropriate. The probation department has has not made reasonable efforts to locate the child.
10. The child is currently detained in juvenile hall. Out-of-home placement continues to be necessary. The placement was was not appropriate.
11. The child is placed outside the state of California, and that out-of-state placement
 a. continues to be the most appropriate placement and is in the child's best interest.
 b. is no longer, the most appropriate placement for the child and is not in the best interest of the child. The matter is continued for a report by the county agency on the progress made toward finding an appropriate placement for the child.
12. The probation department has has not exercised due diligence to locate an appropriate relative with whom (name of child) could be placed. Each relative whose name has been submitted to the department has has not been evaluated. (Family Code section 7950.)
13. The probation department has has not complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child.
 For a child 16 years of age or older in another planned permanent living arrangement, the court finds that the probation department has has not made the following ongoing and intensive efforts to return the child to a safe home or finalize the permanent plan (specify):

CHILD'S NAME:	CASE NUMBER:
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14. **The child is an Indian child**, and by clear and convincing evidence active efforts were were not made to provide remedial services and rehabilitative programs designed to prevent the breakup of this Indian family.

15. **The child has no known Indian heritage.**

16. a. **The following is appropriate and ordered as the permanent plan:**

- (1) The child is returned home immediately.
- (2) Adoption. A hearing under **Wel. & Inst. Code, § 727.31** is scheduled for *(date)*: _____ and an adoption assessment report is ordered.
- (3) Legal guardianship.

b. The court finds by clear and convincing evidence that *(name of child)*: _____ is not a proper subject for adoption and there is no one willing to accept legal guardianship

- (1) The permanent plan is placement in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative.
- (2) The child is 16 years of age or older, there is a compelling reason that no other preferred permanent plan is in the child's best interest, and the child is ordered placed in another planned permanent living arrangement with ongoing and intensive efforts to
 - return home.
 - establish legal guardianship.
 - place for adoption.
 - place with a relative.
 - emancipation.
 - Other *(specify)*:

17. **The likely date** by which the permanent plan will be achieved is:

18. The court finds that the barriers to achieving the child's permanent plan are *(describe)*:

19. **For a child 16 years of age or older placed in another planned permanent living arrangement,**

- a. the court asked the child where **the child** wants to live, **and** the child provided the following information *(describe)*:

- b. the court has considered the evidence before it and finds that another planned permanent living arrangement is the best permanent plan because *(describe)*:

- c. the compelling reasons why the other permanent plan options are not in the child's best interest are *(describe)*:

CHILD'S NAME:	CASE NUMBER:
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Case planning and visitation

20. **Child 14 years of age or older**
- a. The services stated in the case plan include those needed to assist the child in making the transition from foster care to successful adulthood.
- b. The services stated in the case plan do not include those needed to assist the child in making the transition from foster care to successful adulthood.
- c. To assist the child in making the transition to successful adulthood, the probation department must add to the case plan and provide the services
- (1) stated on the record.
- (2) as follows:
21. a. The child was actively involved in the development of **their** case plan, including the plan for permanent placement.
- b. The child was **not** actively involved in the development of **their** case plan, including the plan for permanent placement.
- (1) The probation **department** is ordered to involve the child and submit an updated case plan within 30 days.
- (2) The probation **department** is **not** required to involve the child because the child is unable, unavailable, or unwilling to participate.
22. The court finds that the child's
- a. developmental needs are are not being met. c. physical needs are are not being met.
- b. mental health needs are are not being met. d. education needs are are not being met.
23. The additional services, assessments, and/or evaluations the child requires and the persons or agency ordered to take the steps necessary for the child to receive these services, assessments, and/or evaluations are
- a. **stated** on the record.
- b. as follows:
24. The child has siblings under the court's jurisdiction, and all of the siblings are **not** placed together in the same home.
- a. Visitation between the child and child's siblings who are not placed together is appropriate and ordered.
- b. The court finds by clear and convincing evidence that visitation between the siblings who are not placed together would be contrary to the safety and well-being of at least one of the children. No visitation is ordered.
25. Visitation with the child is ordered
- a. as **stated** in *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. as **stated** in *Visitation Attachment: Sibling* (form JV-401).
- c. as follows (*specify*):

Health and education

26. The child does does not have an order authorizing psychotropic medication. The next hearing to review the psychotropic medication order is on (*date*):
27. For a child who is 10 years of age or older; is in junior high, middle, or high school; and has been under the jurisdiction of the juvenile court for a year or longer, *Status Review Attachment: Sexual and Reproductive Health Services* (form JV-459(A)) has been completed and is attached.
28. The parents legal guardians **Other (specify):** are unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under **Welf. & Inst. Code, § 739** and vested with the probation department.

CHILD'S NAME:	CASE NUMBER:
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29. A limitation on the parents legal guardians Other (specify): _____ to make educational decisions for the child

- a. is **not** necessary. The parents or legal guardian hold educational rights and responsibilities, including those listed in California Rules of Court, rule 5.650(e) and (f).
- b. is necessary. Those rights are limited as ordered and as stated in *Order Designating Educational Rights Holder* (form JV-535).

30. a. The child is 16 years of age or older, and under the requirements of Welf. & Inst. Code, § 16501.1(g)(22),

(1) an individual or individuals have been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(2) the name of the support person(s) to assist the child is:
The support person's relationship(s) to the child is:

(3) an individual or individuals have not been identified to assist the child with applications for postsecondary education, including career and technical education, and related financial aid.

(4) to assist the child in preparing for postsecondary education, the probation department must add to the case plan and provide the services

(a) stated on the record.

(b) as follows:

b. The child is 16 years of age or older and has stated that they do not want to pursue postsecondary education, including career or technical education.

31. The child's school placement has changed since the last review hearing.

- a. The child's educational records, including any evaluation regarding a disability, were transferred to the new school placement within two business days since the placement change.
- b. The child is enrolled in attending school.

Parentage

32. a. The court inquired of the mother others (names and relationships):

as to the identity and address of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete and submit the form to the court.

b. The court clerk probation department shall provide the notice required by Welf. & Inst. Code, § 726.4 to

(1) alleged father (name):

(2) alleged father (name):

Advisement

33. The court informed all parties present at the time of the hearing and further advises all parties that if the child is not returned to the home at the permanency hearing set on a date within 12 months from the date the child entered foster care, the case may be referred under Welf. & Inst. Code, § 727.31 to a selection and implementation hearing **that could result in the termination of parental rights and the adoption of the child.**

34. **All prior orders not in conflict with this order remain in full force and effect.**

35. Other findings and orders:

a. See attached.

b. (Specify):

CHILD'S NAME:	CASE NUMBER:
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36. The date the child entered foster care is *(specify)*:

37. **The next hearing will be:**

Date:	Time:	Dept:	Type of hearing:
Date:	Time:	Dept:	Type of hearing:

38. **The petition is dismissed.** Jurisdiction of the court is terminated. All appointed counsel are relieved.

39. The sealing process has been explained to the child, and the child has received any materials relevant to the sealing process and the name of **their** attorney who can assist with sealing records.

40. Number of pages attached:

Date:

Judicial Officer

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Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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

	Commenter	Position	Comment	Committee Response
1.	Children’s Law Center of CA By Luciana Svidler Senior Policy Attorney	AM	JV-459(A) - pg. 110 Missing “or a nonminor dependent” The code reads: For a child who is 10 years of age or older, is in junior high, middle, or high school, and has been under the jurisdiction of the juvenile court for a year or longer, or a nonminor dependent. court rule should reflect WIC language.	The omission of nonminor dependent was intentional on the JV-459(A) form. The JV-459(A) was created as an attachment for status review hearings for foster youth under the age of eighteen, because the findings will only be required for a subset of foster youth under the age of eighteen as described in Welfare and Institutions Code section 366(a)(1)(F). However, as Welfare and Institutions Code section 366(a)(1)(F) indicates, the findings are always required for a nonminor dependents, and the findings therefore need to be considered at every status review for a nonminor dependent. The findings are therefore contained as a required finding in forms related to nonminor dependent status review hearings (JV-461(A) and JV-462) as opposed to including them on the JV-459(A) attachment form.
2.	John Burton Advocates for Youth by Amy Lemley Executive Director	A	On behalf of John Burton Advocates for Youth, I am writing to express strong support for the proposed revisions to Judicial Council forms designed to implement the changes to WIC §16501.1(g)(22) and relevant changes pertaining to foster youths’ sexual and reproductive health services as defined in Assembly Bill 153. The proposed changes to existing status review forms and the creation of Status Review Attachment: Sexual and Reproductive Health Services (form JV-459(A)) not only accurately capture changes to these sections of the Welfare and Institutions Code	The committee appreciates this comment and agrees that the findings will help ensure that foster youth receive critical support with postsecondary educational planning and access to age-appropriate sexual and reproductive education and health services.

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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

	Commenter	Position	Comment	Committee Response
			and Education Code but will also ensure that foster youth receive critical support with postsecondary educational planning and access to age-appropriate sexual and reproductive education and health services.	
3.	Department of Family and Children’s Services by Rebecca Siporen Los Angeles County Counsel Deputy County Counsel	AM	<p>Should the JV forms be mandatory or optional?</p> <p>The forms should be mandatory as the identified vehicle in requesting the court set an STRTP hearing. The forms are simple for the primary children’s social worker to complete therefore reducing the delays in initiating this process. The court clerk’s office is currently utilizing the JV 237 list of addresses to notice all parties for the STRTP hearing.</p> <hr/> <p>Should the JV 235 include the placement address?</p> <p>Yes as indicated in the Invitation to Comment, there are several STRTP’s which have different locations therefore if a youth is placed from one residence to another, within the same agency, this will allow the court to differentiate between the two different STRTP placements. The court has, on multiple occasion, taken a hearing off calendar as they are under the impression it is the same STRTP the youth was placed in when in fact it was not and requires the courts approval. This has led to delays in court proceedings/approvals and has been a work load impact when these time of incidents have occurred to get the matter back on</p>	<p>The committee agrees the forms should remain mandatory to ensure that statutory requirements related to the hearing are uniformly applied, and to ensure that parties benefit from the information contained in JV-235, JV-236 and JV-240.</p> <hr/> <p>The committee agrees and has elected to include the placement address on the form to identify the specific Short-Term Residential Therapeutic Program (STRTP) placement being reviewed by the juvenile court. A STRTP is a congregate care setting where a child lives for a short period of time to address acute behavioral health needs before moving back to a family-based setting (Welfare and Institutions Code section 11400(ad) defines a short-term residential therapeutic program as “a nondetention, licensed community care facility, as defined in paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code, that provides an integrated program of specialized and intensive</p>

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	Commenter	Position	Comment	Committee Response
			<p>calendar.</p> <p>Specific on pg. 36, on the actual JV 239 form, there is a proposed reason for denial; 10e "the child or nonminor dependent has left the placement and has yet to be located."</p> <p>Youth frequently leave STRTP's for a multitude of reasons nonrelated to the STRTP placement & services. The request for the court's approval of this placement should reflect the need of the youth at the time of placement and for the length of time the youth remained in placement. The youth's current location status at the time of the STRTP hearing, usually scheduled 45 days after date of placement, should not be a reason for a denial.</p> <p>The State has clarified, if a STRTP is denied, the placement is only eligible for federal funding for 14 days from date of placement. The county would risk losing up to 30 days of federal funding at a minimum.</p>	<p>care and supervision, services and supports, and treatment for the child or youth, when the child's or youth's case plan specifies the need for, nature of, and anticipated duration of this specialized treatment). The committee notes that some STRTP's are agencies with multiple homes, so naming the STRTP agency may not provide enough information. If the placement is confidential, the placement address can be submitted separately on JV-287.</p> <p>The committee agrees with the commenter and item 10e has been removed.</p>

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	Commenter	Position	Comment	Committee Response
4.	Orange County Bar Association by Daniel S. Robinson President	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>It does but the process required is still burdensome requiring five forms and noticing parties three times.</p>	<p>The committee appreciates that the process can be burdensome with the multiple forms and notice requirements. This however has a lot to do with the noticing requirements of Welfare and Institutions Code sections 361.22 and 727.12. Subdivision (b)(1) requires the placing agency to request a hearing within five calendar days of a placement in a STRTP. Form JV-235 was created to meet this requirement, not to add a new requirement not in statute. Subdivision (d) further requires the court to set a hearing within 45 days of the request for a hearing and to notice the parties of the hearing date. Subdivision (c) requires the placing agency to prepare a report and serve on the parties no later than seven calendar days prior to the hearing. The forms were created to meet these requirements and did not add new notice requirements not in statute. The only new process created in the rule is what the Legislature directed the Judicial Council to do in subdivision (h), which was to create a process to review STRTP placements without a hearing. These requirements are contained in subdivision (f) of California Rules of Court, rule 5.618.</p>

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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	Commenter	Position	Comment	Committee Response
			<p>Should form JV-235 include the placement address?</p> <p>No. It can be provided upon request.</p>	<p>The committee has elected to include the placement address on form JV-235 to ensure that the court is approving or disapproving the appropriate STRTP placement as foster youth often change STRTP placements and the court is required to review each placement. The committee notes that some STRTP's are agencies with multiple homes, so naming the STRTP agency may not provide enough information. If the placement is confidential, the placement address can be submitted separately on JV-287.</p>
			<p>Should form JV-446 address the return of the minor to the home of the parent or legal guardian?</p> <p>Return to a parent is an option under W.I.C. section 366.3, subdivision (h)(1).</p>	<p>The committee agrees that return home is an option at a Welfare and Institutions Code section 366.3 hearing and this option will be reflected in form JV-446.</p>
			<p>Should the forms related to the juvenile court's review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?</p> <p>Optional. If counties can streamline the process they should be allowed to do so.</p>	<p>The committee has elected to maintain the forms as mandatory to ensure that statutory requirements related to the hearing are uniformly applied, and to ensure that parties benefit from the information contained in JV-235, JV-236 and JV-240.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?</p> <p>The original intent of being able to streamline the process by approval of placements without a hearing is undercut by the additional steps required. The report must be served earlier (10 not 7 days), a new form must be added (JV-240), and the court must be notified no objection has been filed, and the parties have to be notified of the decision to vacate the hearing. Not requiring an additional form and having the same timeline would simplify the process. However, this second process may not be needed if it does not in fact streamline it.</p>	<p>The committee appreciates that the process to approve the placement without a hearing can be burdensome. In creating this process, the committee was concerned with ensuring the parties have the chance for meaningful input and due process before the court vacates the hearing. To accomplish these ends, the committee created a separate timeline that would give parties sufficient time to review the report and prepare a response. The committee did not believe that seven calendar days was a sufficient amount of time for party responses, so a separate timeline was created. The committee also included new form JV-240 in this proposal to ensure that parties would be noticed that a request for review without a hearing was being made, which the current process does not include. This form is served at the same time as the report.</p>
			<p>Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?</p> <p>Let local courts determine what works best in their jurisdiction.</p>	<p>The committee agrees and has elected to not include a timeline for the filing of an objection. Courts have managed this process without a specific timeline in the rule since the rule's effective date of October 1, 2021. The committee believes that giving courts some discretion on this aspect of the process benefits courts and parties.</p>
5.	Sacramento County Counsel By Christopher S. Costa Supervising Deputy County Counsel		<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes. Overall the recommended changes are beneficial and welcome. The clarification that</p>	<p>The committee appreciates this input.</p>

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	Commenter	Position	Comment	Committee Response
			<p>CCP section 1013(a) does not apply is extremely helpful and will prevent delay in these time-sensitive proceedings. However, there are three practice areas that are not addressed in this proposal that need clarification.</p> <p>Voluntary Placements: Rule 5.618 or Rule 5.514 (Intake; guidelines) should address voluntary placement procedures. 42 U.S.C. section 675a(c)(2) indicates that within 60 days of a QRTP/STRTP placement there must be a review and approval by a juvenile court or an “administrative body appointed or approved by the court”. Some counties are unclear whether this requirement for administrative/court review applies to voluntary placements prior to juvenile dependency petitions being filed, resulting in counties filing more petitions in juvenile court to secure funding for STRTP placements. WIC section 16507.3(b) (citing a provision of WIC section 16507.6(a)(4), which no longer exists) indicates that the initial placement of an emotionally disturbed child into a residential treatment facility must be approved by an “interagency administrative review board”. Rule 5.618 or Rule 5.514 should require the establishment of a process, similar to Rule 5.514(b)(3) for the voluntary placement of Indian children, to assist counties in understanding how to work with courts to secure funding for voluntary placements. For example, the Rule</p>	<p>The Family First Prevention Services Act (FFPSA) requires that “a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court...” review each congregate care placement. (42 USC 675a(c)(2)). Assembly Bill 153 did not specify a process to review STRTP placements when the court did not have jurisdiction, nor did the bill address the court appointing an administrative body for these reviews. The committee believes that an administrative body could review these placements under the FFPSA but that this is a matter for the Legislature to address as opposed to a rule of court. The Welfare and Institutions Code has specific provisions for when administrative panels can be used, but administrative review of voluntary STRTP placements is not contemplated by the code. The committee does not believe that a rule of court could create a process where a juvenile court, without jurisdiction, reviews placements without the Welfare and Institutions Code addressing the process.</p>

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			<p>could clarify that courts may choose to approve/appoint the Interagency Placement Committee in each county as such an administrative/multidisciplinary body for voluntary placements..</p> <p>Electronic Service: Rule of Court 5.618 should clarify that electronic service of the report described in section 361.22(c) may be served electronically, so long as the requirements of WIC section 212.5 are followed. Some counties are unclear whether, given the substance of the QI report, the agency report (which includes the QI report) constitutes medical or psychological documentation related to the child. If the QI report or agency report does not attach medical or psychological records, then it seems that WIC section 212.5(a)(4)(D)'s prohibition on electronic service of psychological or medical documentation would not be violated, if a county served the aforementioned reports electronically. However, given that some counties are unclear, Rule 5.618 should clarify that such electronic service of the report is permitted as described to ensure timely service of documents. Electronic service of documents is often critical to ensure the time periods set forth in WIC section 361.22 and Rule 5.618 are followed to allow for timely hearings and funding.</p> <p>Clarification on the Court's Approval/Disapproval: The JV-239 or Rule 5.618</p>	<p>The committee concluded it would be redundant to repeat the applicability of Welfare and Institutions Code section 212.5(a)(4)(D) in the rule, and therefore unnecessary while also raising the risk of creating a possible discrepancy between the rule and the statute. In addition, mandatory form JV-237, the notice form, indicates that electronic service is a permissible mode of service and that that service must comply with section 212.5.</p> <p>The committee appreciates this suggestion. However, the language in item 9 of JV-239 tracks</p>

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	Commenter	Position	Comment	Committee Response
			<p>should be modified in a way that clearly indicates to the court that it can determine that a child needs an STRTP level of care, but still disapprove of the particular STRTP in which the child is placed. Some counties have struggled to place children in home-based settings, following such disapprovals, and having a clearer understanding of the court’s transition order would benefit participants. To that end, the JV-239’s language that the child be transitioned to a “placement setting that is consistent with the determinations in items 6, 7 and 8 within 30 days” can be confusing (particularly in light of paragraph 8 regarding ICWA). For example, paragraph 9 (“disapproved”) may be clearer (and better cover the possibilities arising out of a WIC section 361.31 placement preferences determination) if it indicates “The social worker or probation officer is ordered to transition the child or nonminor dependent to a placement setting with a level of care that is consistent with paragraph 6 or as otherwise specified in paragraph 11.”</p>	<p>the language of Welfare and Institutions Code sections 361.22 and 727.12, and the committee believes that this is sufficient.</p>
			<p>Should the JV-235 include the placement address? Yes, the provision of the address assists the court and parties in quickly understanding what county the child is placed in, and exactly what placement the county is requesting STRTP placement.</p>	<p>The committee agrees with the commenter and the placement address is included as required information on the JV-235.</p>
			<p>Should form JV-446 address the return of the minor to the home of the parent or legal guardian?</p>	<p>The committee agrees that in most cases, return home is typically not a germane issue at a</p>

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	Commenter	Position	Comment	Committee Response
			<p>No. Typically, return of a child to a parent at a WIC section 366.3 hearing should not be expected and, procedurally, would typically require the application of WIC section 366.3(f). Making this a standard/recommended order seems to suggest that it is somehow consistent/expected, when it typically is not. Therefore, paragraph 38 of the JV-446 is appropriate, as it restates WIC section 366.3(f); however, paragraph 11 does not discuss a legal standard for the participants (e.g., it should procedurally occur through a WIC section 388 motion) and would likely cause confusion in court and on appeal.</p> <hr/> <p>Should the forms related to the juvenile court’s review of STRTP placements (forms JV-235, 236, 237, and 239) be mandatory or optional?</p> <p>The JV-239 should definitely be mandatory to ensure uniformity for counties working to secure funding. The JV-235, 236, and 237 being optional will be helpful for counties with robust proofs of service practice and will alleviate unnecessary/perfunctory work in some cases (particularly with the JV-235 and 236 receipt). For example, if the agency has placed a child in an STRTP near the time of a scheduled hearing, and if all parties are present, parties can agree that they</p>	<p>postpermanency hearing. However, the committee considered several provisions of Welfare and Institutions Code section 366.3 that suggest return home is an option at a postpermanency hearing, including that the court must consider all permanency planning options for the child, “including whether the child should be <i>returned to the home of the parent</i>” (§ 366.3(h), italics added). In addition, section 366.3 requires the court to determine whether the out-of-home placement remains necessary, the extent of the progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care, and the likely date by which the child may be returned to, and safely maintained in the home (§ 366.3(e)(1), (7) & (8)).</p> <hr/> <p>The committee has elected to maintain the forms as mandatory to ensure that statutory requirements related to the hearing are uniformly applied, and to ensure that parties benefit from the information contained in JV-235, JV-236 and JV-240. In the example provided, the committee understands that mandatory forms might be burdensome, but the committee believes that the reasons for keeping the forms mandatory as stated outweigh the concerns raised.</p>

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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	Commenter	Position	Comment	Committee Response
			<p>have received adequate notice in court, vs. counties using time and resources to file forms and prove service. Also, making the forms optional (vs. mandatory) will hopefully encourage courts to be even more flexible in working with counties to get information before the court in the narrow timeframes allotted by WIC section 361.22 and WIC section 4096.</p> <p>Does the process to approve the placement without a hearing in Rule 5.618(f) appropriately address its stated purpose. Would any modifications to the process improve the process?</p> <p>Given that QI reports can take up to 30 days to receive (following emergency placement), the 10 court days advance notice seems very challenging in most cases. So challenging, in fact, that in many cases, if the QI report is not received until calendar 30 after placement, it may be impossible to create an agency report and serve the parties approximately 14-16 calendar days prior to the hearing. That said, having a uniform 7 calendar days service requirement prior to hearing approach and then having the agency represent that it has confirmed that the parties agree 2 court days prior (or requiring objections to be filed 2 court days prior) to the hearing would be more realistic for counties to utilize the approval without a hearing process.</p>	<p>The committee appreciates the concern raised regarding having two different timelines for serving the reports. In implementing the statutory directive that the Judicial Council create a process to review the placement without a hearing under Welfare and Institutions Code sections 361.22(h) and 727.12(h), the committee sought to ensure that parties would have a sufficient chance to review the report and make an objection, and this required the committee to create a different timeline than the seven calendar days required for the filing of the report in section 361.22 and 727.12. The committee did not believe that the seven-calendar day timeframe was enough time for parties to receive the report and prepare a response. This timeline took into consideration the timeline for the Qualified Individual (QI) report, which is required no later than 30 calendar days after the start of the placement. Ten court days before the hearing will in many cases be very close to the 30-day timeline for the report. If the report is prepared earlier than the federal timeline requires, the</p>

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	Commenter	Position	Comment	Committee Response
			<p>Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?</p> <p>Local courts should be given the flexibility allowed under Rule 5.814(f)(4) to create local rules that are best suited for their particular county. However, Rule 5.814(f)(4)(A)-(D) should be amended if the JV 235-237 become optional forms; therefore, the local rules would not be subject to those potentially optional forms. Again, as indicated above, the 10 court days advance service timeline should be reconsidered (as 7 calendar days is more realistic, given the narrow timelines, following receipt of the QI report).</p>	<p>timeline in the rule will be easier to meet. Welfare and Institutions Code section 4096(g)(2) requires the QI report to be completed prior to the start of the placement unless it is an emergency placement.</p> <p>The committee agrees that giving courts flexibility in the filing of the objection form can be beneficial for courts. The committee has elected to keep the forms mandatory. See the comment directly above regarding the timelines for approval without a hearing.</p>
6.	Superior Court of Los Angeles County by Bryan Borys	A	<p>Should form JV-235 include the placement address?</p> <p>Yes, it is beneficial because it offers a quick reference point for Judicial Officers on any future requests. We also agree with the committee that the STRTP may have multiple homes; therefore, providing the address will assist the judicial officers with identifying the exact facility.</p>	<p>The committee agrees. The committee determined the placement address was necessary to ensure that the court is approving or disapproving the appropriate STRTP placement as foster youth often change STRTP placements and the court is required to review each placement. In addition, some STRTP's are agencies with multiple homes, so naming the STRTP agency may not provide enough information. If the placement is</p>

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	Commenter	Position	Comment	Committee Response
				confidential, the placement address can be submitted separately on JV-287.
			Should form JV-446 address the return of the minor to the home of the parent or legal guardian? Yes, as this is an option for the court and a possible order.	The committee agrees and the form will include the option for return home orders.
			Should the forms related to the juvenile court’s review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional? Forms JV-235, JV-236, and JV-237 can be optional. The JV-239 should remain mandatory.	The committee has elected to keep JV-235, JV-236, JV-237 and JV-239 as mandatory to promote consistency in the process of court review of STRTP and CTF placements.
			Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process? Yes, the process addresses its stated purpose. No modifications recommended at this time.	No response required.
			Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires? Yes, a timeline should be included to be clear and consistent with the other STRTP timelines provided by the JCC.	The committee has elected to not include a timeline for the filing of an objection. Courts have managed this process without a specific timeline in the rule since the rules effective date of October 1, 2021. The committee believes that giving courts some discretion on this aspect of the process benefits courts and parties.

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	Commenter	Position	Comment	Committee Response
7.	Superior Court of Orange County by Vivian Tran, Operations Analyst	NA	<p>Comments No comments.</p> <p>Request for Specific Comments</p> <p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> ▪ <i>Does the proposal appropriately address the stated purpose?</i> <ul style="list-style-type: none"> ○ Yes, but consider making forms mandatory rather than optional as the forms currently meet all needs. Parties will be able to utilize the mandatory forms and it may make it easier for staff to receive the forms instead of pleading paper. ▪ <i>Should form JV-235 include the placement address?</i> <ul style="list-style-type: none"> ○ No, this does not appear to be needed as the placement report has this information. ▪ <i>Should form JV-446 address the return of the minor to the home of the parent or legal guardian?</i> 	<p>The committee agrees that the forms should remain mandatory except for JV-238. The JV-238 will remain an optional form as it is a form the court may use to notice parties of the hearing; but <u>and</u> courts may have a local process or procedure already in place and the committee elected to give court's greater flexibility in this regard.</p> <p>The committee has elected to include the placement address to identify the specific STRTP placement being reviewed by the juvenile court. The committee notes that some STRTP's are agencies with multiple homes, so naming the STRTP agency may not provide enough information. If the placement is confidential, the placement address can be submitted separately on JV-287.</p> <p>The committee agrees that return home is an option at a section 366.3 postpermanency hearing and this option will be reflected in form JV-446.</p>

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SPR22-13

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> ○ Yes, form JV-446 should address the return of the minor to the home of the parent or legal guardian. 	
			<ul style="list-style-type: none"> ▪ <i>Should the forms related to the juvenile court’s review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?</i> <ul style="list-style-type: none"> ○ The forms should be mandatory as they currently meet all needs, except for the JV-235. 	<p>The committee has elected to maintain the forms as mandatory to ensure that statutory requirements related to the hearing are uniformly applied, and to ensure that parties benefit from the information contained in JV-235, JV-236 and JV-240. Specifically, the committee elects to keep the JV-235 mandatory as it contains the address and the date of placement which is critical in meeting state and federal timelines to ensure the receipt of federal funding. In addition, JV-235 includes important clarifying information for parties that they might not receive if the forms were optional.</p>
			<ul style="list-style-type: none"> ▪ <i>Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?</i> <ul style="list-style-type: none"> ○ Yes, the process appropriately addresses its stated purpose. 	<p>No response required.</p>
			<ul style="list-style-type: none"> ▪ <i>Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?</i> <ul style="list-style-type: none"> ○ Yes, the rule should include a timeline. 	<p>The committee has elected to not include a timeline for the filing of an objection. Courts have managed this process without a specific timeline in the rule since the rules effective date of October 1, 2021. The committee believes that giving courts some discretion on this aspect of the process benefits courts and parties.</p>

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	Commenter	Position	Comment	Committee Response
			<p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> ▪ <i>Would the proposal provide cost savings? If so, please quantify.</i> <ul style="list-style-type: none"> ○ No, the proposal does not appear to provide cost savings. ▪ <i>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?</i> <ul style="list-style-type: none"> ○ If the forms are made optional, this would require staff to be trained to review pleading documents and to determine required language for certain documents. ○ Procedures would need to be revised. ○ Training for case processing clerks and courtroom clerks (approximately 2 hours). ○ Need additional time to create training items and classes. ○ Case management systems would be modified to make sure documents are not filed as something different and e-filing would need extra training as well. 	<p>The committee notes this response.</p> <hr/> <p>The committee has elected to keep the forms mandatory, so the concerns raised in this comment should be alleviated.</p>

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> ▪ <i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> <ul style="list-style-type: none"> ○ No, six months would be more sufficient as courts would need time to modify systems, create training items, schedule training for staff and for creating new process. ▪ <i>How well would this proposal work in courts of different sizes?</i> <ul style="list-style-type: none"> ○ This proposal would work for Orange County. 	<p>The committee appreciates that courts would benefit from more time to implement the changes made in this proposal. However, since the STRTP review process is not being significantly overhauled, but instead some small changes to the existing process are being made, the committee hopes that courts will be able to implement the changes by the effective date of the proposal.</p> <p>No response required.</p>
8.	Superior Court of Riverside County by Susan Ryan Chief Deputy of Legal Services		<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes, the proposal does seem to address additional aspects of AB 153 that were not addressed by last year’s proposal.</p> <p>Should form JV-235 include the placement address?</p> <p>While the court understands the need to have the placement address on the JV-235, often times in dependency court the placement address should remain confidential for the safety of the children. Using the JV-287 could work as a solution for confidential addresses, however it also opens up possibility of clerical error by the filers of the</p>	<p>No response required.</p> <p>The committee appreciates the concern raised but believes that including the specific placement address is necessary to ensure that the correct placement is being reviewed. The committee considered the placement address to be necessary because of STRTP agencies that have multiple homes and the need to ensure the court’s review is of the specific placement where the youth resides.</p>

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	Commenter	Position	Comment	Committee Response
			documents or the courts.	
			Should form JV-446 address the return of the minor to the home of the parent or legal guardian? Yes, returning a child home is an option is postpermanency, therefore it would make sense that it should be addressed on this form.	The committee agrees with the commenter and return home is being added as a finding on the JV-446.
			Should the forms related to the juvenile court’s review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional? It is always easier and more efficient for courts when forms are mandatory in processes that require multiple steps and timelines. Consistency in the forms makes it easier for court staff to recognize what needs to be done and what stage of the process the request is at. Plus, the existing processes that have been created rely on the forms that have already been designated mandatory.	The committee agrees the forms should remain mandatory for the reasons stated by the commentator and for consistency in the process around the state and to ensure that parties benefit from the information contained in the mandatory forms that are served on them.
			Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process? Yes	No response required.
			Should the rule include a timeline for the filing and serving of the objection to the STRTP, or	The committee has elected to not include a timeline for the filing of an objection. Courts have managed this process without a specific timeline

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	Commenter	Position	Comment	Committee Response
			<p>should this be left to local courts to determine, as the current rule requires?</p> <p>Yes, a timeline for the filing and serving of the objection should be provided.</p>	<p>in the rule since the rules effective date of October 1, 2021. The committee believes that giving courts some discretion on this aspect of the process benefits courts and parties.</p>
			<p>Would the proposal provide cost savings? If so, please quantify.</p> <p>No cost savings.</p>	<p>No response required.</p>
			<p>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?</p> <p>Procedures that were created last year will need to be revised. New codes in the case management system would need to be created. The changes would need to be shared with court staff, agencies and judges.</p>	<p>Because the Legislature required the Judicial Council to implement rules and forms on the FFPSA process by October 1, 2021, the committee was required to circulate the proposal based on the trailer bill language prior to the legislation being finalized. Since the final version of the proposal could not circulate for comment in the previous cycle for this reason, the proposal has circulated a second time. The committee appreciates that the changes made to the STRTP court review process will need to be revisited by courts as this is the second time the FFPSA proposal is circulating for comment.</p>
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes</p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			How will would this proposal work in courts of different sizes? This should work the same for courts of any size.	The committee appreciates this response.
9.	Superior Court of San Bernardino County by Honorable Annemarie Pace Presiding Juvenile Judge	AM	The judge should be able to approve the placement without a hearing even if there is an objection filed. This is in line with other types of decisions juvenile judges make such as psychotropic medications and 827 requests. These can be done without a hearing even if there is an objection. Some objections are invalid at best and frivolous at worst.	The committee elected to maintain the current requirements in the rule that the hearing be held if a party objects to the placement. The committee felt that given that STRTP's are the most restrictive type of placement for a foster youth, a youth's day in court and opportunity to be heard is important enough to warrant the hearing always being held if there is an objection.
10.	Superior Court of San Diego County by Mike Ruddy Executive Officer	AM	Does the proposal adequately address the stated purpose? Yes.	No response required.
			Should form JV-235 include the placement address? The street address is probably not necessary, but it would be helpful to know if the placement is in the county/state or not.	The committee elected to include the placement address to identify the specific STRTP placement being reviewed by the juvenile court. The committee notes that some STRTP's are agencies with multiple homes, so naming the STRTP agency may not provide enough information. If the placement is confidential, the placement address can be submitted separately on JV-287.
			Should form JV-446 address the return of the minor to the home of the parent or legal guardian? Yes.	The committee agrees and the return home has been added to JV-446 as a potential finding.

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	Commenter	Position	Comment	Committee Response
			<p>Should the forms related to the court’s review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?</p> <p>Now that these forms have already been developed, they should remain mandatory because (1) they elicit all the information necessary to both accomplish their purposes and satisfy statutory requirements for their respective functions (e.g., JV-237, indicating parties who must be served) and (2) they will help ensure that procedures are executed uniformly across the state.</p> <p>An example of the unintended consequence of making the forms optional: The deletion of the references to the JV-235 and JV-236 in CRC 5.618(b) has left the rule stripped of the requirement that a copy of the JV-235 (or its equivalent) be served on the parties. The rule now merely requires that the SW or PO “notify” the parties. Also, the JV-235 already contains the important information about the parties’ right to provide input to the court and the possibility that the court may approve the placement without a hearing (item 4). If courts are going to use their own forms or paperwork to make the request, it is vital that this information be provided to the parties.</p>	<p>After careful consideration, the committee agrees that forms should be kept as mandatory. This promotes uniformity throughout the state and helps ensure procedural compliance with the applicable statutes and rules for a relatively new process. In addition, parties’ benefit from the information in the mandatory forms that are served on them.</p> <p>The committee agrees with the concern raised and forms will remain mandatory, so references to the forms in California Rules of Court, rule 5.618 will remain.</p>

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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	Commenter	Position	Comment	Committee Response
			<p>Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?</p> <p>It seems confusing that 5.618(d)(2) requires service of the report “no later than seven calendar days before the hearing,” but 5.618(f) requires a proof of service verifying that the parties were served with the report “no later than 10 court days before the hearing date.” It would be helpful to have a consistent deadline. Also, rule 5.618(f)(1)(A) requires that the service requirements of 5.618(b) were met, but as revised by the proposal, 5.618(b) no longer requires service of the JV-235 on the parties (see my comment to the previous question). Also, if a party wishes to provide input or object using a method other than form JV-236, that party may not provide the court with all of the information needed by the court. The statutory timelines make it difficult to gather all the required information and still have enough time to take the hearing off calendar.</p> <p>Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?</p>	<p>The committee appreciates the concern raised regarding having two different timelines for serving the reports. However, Welfare and Institutions Code sections 361.22(h) and 727.12(h) require the Judicial Council to create a process to review the placement without a hearing, and the committee sought to ensure that parties would have a sufficient chance to review the report and make an objection, and this required the committee to create a different timeline than the seven calendar days required for the filing of the report in section 361.22 and 727.12. In light of the committee’s decision to keep the forms mandatory, the remaining issues raised in the comment regarding the service of the JV-235 form and providing input using a different method other than the JV-236 form are now moot.</p> <p>The committee agrees that giving courts some flexibility in this process would benefit courts.</p>

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			<p>Leaving it to local practice and rules provides the most flexibility and is preferable.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p> <p>To the extent the forms save time and workload explaining procedures to unrepresented parties and/or correcting procedural errors made by unrepresented parties, yes.</p> <p>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?</p> <p>Training judicial officers and court clerks, supervisors, and managers, revising any written processes and procedures currently in use (including those posted on court websites or intranet sites), and modifying case management systems to accommodate an increasingly complicated field of options, criteria, and requirements. Train judicial officers and court staff on any changes to the procedure and forms. Add or amend minute</p>	<p>No response required.</p> <p>The committee understands that courts may have additional implementation requirements due to this proposal and hopes that these additional implementation requirements are not too burdensome. The proposal had to circulate a second time to provide an opportunity for courts and justice partners to provide input on procedures developed based on the enacted legislation and meet the requirement that all rules and forms changes circulate for public comment.</p>

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			order codes to comply with changes.	
			Would 3 months from approval of this proposal until its effective date provide sufficient time for implementation?	No response required.
			Yes, if the forms are made available by that time.	
			How well would this proposal work in courts of different sizes?	No response required.
			It depends on each court’s capacity for implementing new forms. It should work in San Diego County.	
			Other comments:	
			Change delinquency to juvenile justice throughout.	The committee considered making this change prior to circulating the proposal for comment. But because the Welfare and Institutions Code still uses “delinquency” the committee elected to wait for the legislature to address this change first.
			Rule 5.618(b): The rule now only requires notice that a hearing has been requested and does not expressly require service of the paperwork.	Since the committee elected to keep the forms mandatory, the rule now includes a requirement that the various forms be served on the parties.
			Rule 5.618(b): As changed by the proposal (deleting “use ... JV-235 to request a hearing”), subd. (b) no longer specifies how the agency is to make the request of the court – i.e., by filing a JV-235 or alternative paperwork. (See comment above suggesting that four forms remain mandatory.) If the JV-235 becomes an optional	Since the committee elected to keep the forms mandatory, the rule now includes a requirement that the various forms be served on the parties. As to whether the rule should specify the type of notice, the committee does not believe it is necessary to specify the type of notice. The mandatory notice form, <i>Proof of Service—Short-</i>

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			<p>form, there should be text in the rule stating that the SW or PO may request the review or hearing from the court by filing a JV-235 or other paperwork. Per the title of subd. (b), the text also should specifically require <i>service</i> of the JV-235 or other paperwork on the parties. As revised, it merely requires that the parties be <i>notified</i>. (Question: Should the rule also specify the manner of service, e.g., mail or email?)</p> <p>Rule 5.618(b): Suggested changes (to distinguish from a request for hearing; see also title of form JV-235 [“Request for Review”] and CRC 5.618(f)(1)); but see WIC § 361.22(b)(1) [SW “shall request the court to schedule a <i>hearing</i>”]) –</p> <p>Service of request for hearing review The social worker or probation officer must notify the following parties that a hearing review is requested under section 361.22(b)(1) or 727.12(b)(1) within five calendar days of each placement of a child or nonminor dependent in a short-term residential therapeutic program:</p> <p>Rule 5.618(c): Suggested edit –</p> <p>The court must set a hearing under section 361.22(d) or 727.12(d) after receiving a the request for a hearing review to. The hearing must be held within 45 days of the start of the short-term residential therapeutic program placement. ...</p>	<p><i>Term Residential Therapeutic Program Placement or Community Treatment Facility (JV-237)</i> provides this clarification, as it includes a list of four specific types of notice on the first page.</p> <p>The suggested change was not made because Welfare and Institutions Code sections 361.22(b) and 727.12(b) reference a request for hearing.</p> <p>See comment above.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Rule 5.618(e)(4): Suggested edit because JV-236 will no longer be a mandatory form –</p> <p>Local county practice and local rules of court determine the procedures for completing, filing, and serving form JV-236 or another method of providing input, except as otherwise provided in this rule.</p> <p>Rules 5.697 and 5.903: Cross-references to statutes are less helpful than a list of specific items.</p> <p>Rule 5.903 title: Add citations to §§ 391, 11403.</p> <p>Rule 5.903(d)(1): Suggested edits –</p> <p>The social worker or probation officer must submit a report to the court that includes information regarding the required information in required by section 366.31(b), (d), (f), or (h), as applicable, and section 391(c). For a nonminor dependent with a permanent plan of another planned permanent living arrangement, the report must include a factual discussion of each item</p>	<p>Because the forms will remain mandatory, this change was not made.</p> <p>The committee and the Judicial Council seek to limit unnecessary redundancy in rules of what is listed in statute to avoid creating any possible discrepancy between the rule and the statute. For this reason, the committee elected to reference the statute instead of listing the requirements a second time in the rule.</p> <p>The committee agrees that both the code sections cited have a bearing on the nonminor dependent status review hearing and the citations have been added to the title of the rule.</p> <p>The change has been made, although after further amendments, the sentence is not in the same format as when it circulated for comment.</p>

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			listed in section 366.31(e). The following additional information must also be included:	
			Rule 5.903(e): Delete “and” – “The court must consider the safety of the nonminor dependent, and make the judicial findings”	The change has been made.
			JV-235: The placing agency might not actually be requesting a hearing.	Welfare and Institutions Code sections 361.22 and 727.12 (b) and (d) require that a hearing be requested and that the court set the hearing. The hearing must be set and then vacated if the court approves the placement without a hearing pursuant to subdivision (f) of California Rules of Court, rule 5.618.
			JV-235, item 2: Suggested edit – The placement is confidential; the following information is name and address of the placement are submitted through on form JV-287.	The change has been made.
			JV-235, item 3: Suggested edit – ... to review the placement of the child or nonminor dependent in the short term residential therapeutic program listed in 2.	The committee does not believe that this change is necessary. The form is intended for use by parties and the committee believes more specificity in referencing the short-term residential therapeutic program will benefit parties.
			JV-235, item 4: It is recommended that you consult with your attorney if , you have one, on the best way to make your objection known to the court. (The comma is in the wrong place.)	The comma after “if” has been removed.

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			Question: Should item 4 also inform the parties that they also may provide input (not necessarily an objection) to the court regarding the STRTP placement? (See instructions at top of JV-236.)	The committee believes that explaining the use of the JV-236 regarding input is better left to the JV-236 form. The committee seeks to emphasize the objection process in this advisement in item 4 of the JV-235.
			<p>JV-236 instructions: Suggested edits –</p> <p>When you receive the report, the agency may also send you form JV-240, ..., which will indicate that to inform you the agency is requesting that the court approve the placement without a hearing. ... If the hearing is kept on calendar, you should work with your attorney to determine when the form is required to must be filed.</p>	The reference to JV-240 has been removed in an effort to make the form easier to read and concise.
			<p>JV-236, item 4a: Suggested edits (to avoid having the blank for <i>date</i> incorrectly used for the date of the STRTP placement) –</p> <p>On (date): _____, I received the report from the social worker or probation officer addressing the child’s or nonminor dependent’s placement in the short-term residential therapeutic program on (date): _____.</p>	The form has been updated and the date is now only required if the user indicates “yes” to whether they have received the report.
			<p>JV-236, item 5: Suggest replacing hyphen with or – “child’s or nonminor dependent’s”</p>	This phrase no longer appears in item 5.
			<p>JV-237, first check box: Question – If the JV-236 becomes an optional form as proposed, doesn’t</p>	The forms will remain mandatory.

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			this (“AND a blank copy of ... [JV-236]”) need to be changed?	
			JV-238, item 2, both check boxes: Same Question – If the JV-236 becomes an optional form as proposed, doesn’t this (“AND a blank copy of ... [JV-236]”) need to be changed?	The forms will remain mandatory.
			JV-239, items 3b, 3c, and 4: The input could be provided in another format.	JV-236 will remain mandatory, but input could be provided in another format and this input can be listed in 3e or 3f as “other.”
			JV-239, item 4: Same question – If the JV-236 becomes an optional form as proposed, doesn’t this (“AND a blank copy of ... [JV-236]”) need to be changed?	JV-236 will remain mandatory.
			JV-239, item 9, second check box: Insert comma after “7.”	The suggested change has been made.
			JV-239, item 10c: Change “meet” to “met.”	The suggested change has been made.
			JV-240, instructions: Suggested edit – You are receiving this notice because a request is being made the agency in 1 is asking the court to approve the placement of the child or nonminor dependent in the short-term residential therapeutic program indicated below in 2 without holding a hearing	The introductory paragraph has been amended and this language no longer appears there.
			JV-240, instructions: Question – The second sentence refers to “The hearing date indicated below,” but there is nothing on the form that	A new item has been added to the form to include the date of the hearing.

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			provides the hearing date set by the court. The only blanks for dates are the date of placement in item 2 and the date of the signature on the form.	
			JV-240, item 3: rule of court 5.618(f) of the California (or California rule of court)	A reference to rule 5.618 has been removed in an effort to make the form easier to read and concise.
			JV-240, item 3: Suggested edits – After meeting the requirements of California Rules of eCourt, rule 5.618(f) of the California-or local rule _____, the placing agency in item 1 is requesting that the court ...	See comment above.
			JV-240, item 4: Suggested edits – If you do not file an objection to the placement indicated above in item 2 within 5 court days of receiving the report for the hearing, the court may approve the placement without a hearing. To do so make an objection, you may make your objection using use Input on Placement in Short-Term Residential Therapeutic Program (form JV-236) and fil ing e it with the court or by fil ing an objection without using form JV-236. It is recommended that you consult with your attorney, if you have one, on the best way to make your objection known to the court. The report for the hearing is described in Welf. & Inst. Code § 361.22(c) or 727.12(c).	Since the forms will remain mandatory, the language will reflect that an objection must be made using the JV-236 form.
			JV-240, left footer: Delete “Rev.”	The suggested change has been made.

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			<p>JV-240, center footer: To match title of form at the top of the page, 7 - replace “Review” with “Approval” - delete “Placement in” - add “Without a Hearing” at end of title.</p>	<p>The title of the footer has been matched to the correct form name.</p>
			<p>JV-320, item 5b: Insert comma between “§ 349(a)” and “or.”</p>	<p>The suggested change has been made.</p>
			<p>JV-320, item 8b(2): Suggest moving “is likely to result in” to the next line so that it and “serious emotional or physical damage to the child” are on the same line.</p>	<p>The suggested change has been made.</p>
			<p>JV-320, items 14c, 15b, 16e: Suggested edits – ... is-would be detrimental to the child's physical or emotional well-being and is terminated prohibited.</p>	<p>Since a detriment finding can apply to both current and future visits between a child and parent, the committee has elected to keep the present tense. The committee also notes that the finding should be made based on whether there is detriment at the time of the hearing.</p>
			<p>JV-320, item 15: The appointment is not effective until letters-the Letters have issued.* *This suggestion was included with the comment below, but we separated it since it refers to a different item number.</p>	<p>The suggested change has been made.</p>
			<p>JV-320, line above item 16d: Change “<i>items 16b and 16c</i>” to “<i>items 16d and 16e.</i>”</p>	<p>Revisions have been made to item 16 and 17 that make this suggestion no longer applicable.</p>

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			<p>JV-320, item 17a(3): Suggested edit –</p> <p>A diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...</p>	<p>The committee does believe a comma is needed after “family.” “Or” has been added.</p>
			<p>JV-320, item 17a(4): Suggested edit –</p> <p>A diligent search was made for a placement with a member of the child's extended family, in a foster home licensed, approved, or specified by the Indian child's tribe, or in an Indian foster home licensed or approved by an authorized non-Indian licensing authority, ...</p>	<p>The suggested change has been made (now item 19).</p>
			<p>JV-320, item 17a(6) and 17b(5): Question – Should these two items be identical? Item 7b(5) adds “in detail” before “in the record.”</p>	<p>The committee agree that the language in these two items should mirror each other; “in detail” has been removed from former item 17 (current item 19).</p>
			<p>JV-421, item 3c: Change “was” to “is” (“There was-is clear and convincing evidence ...”).</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 5d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –</p> <p>These efforts and the case plan <u>have</u> <u>have</u> not been developed conducted and conducted developed to the maximum extent ...</p>	<p>The suggested change has been made.</p>

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			<p>JV-421, item 12c: Suggested edit – a diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...</p>	<p>The committee does believe a comma is needed after “family.” “Or” has been added.</p>
			<p>JV-421, item 22b: Delete comma after “denied.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 23a(1): Delete comma after “granted” and insert comma after “because.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 23c(2): Delete comma after “denied.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 23d(1): Delete comma after “granted.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 23e(1): Delete comma after “granted.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 23e(2): Delete comma after “denied.”</p>	<p>The suggested change has been made.</p>
			<p>JV-421, item 36a(2): Insert “the support person’s” before “relationship(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-430, item 3b(1): Suggested edits – The child was properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing under Welf. & Inst. Code, § 349(a) and was given an opportunity to be present, and there</p>	<p>The committee has elected to maintain the reference to Welfare and Institutions Code section 349(d), as subdivision (d) addresses the notice and right to appear that this item is intended to address.</p>

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	Commenter	Position	Comment	Committee Response
			is no good cause for a continuance to enable the child to be present.	
			<p>JV-430, item 3b(2): Suggested edits – The child was not properly notified under Welf. & Inst. Code, § 349(d) of the right to attend the hearing under Welf. & Inst. Code, § 349(a) or the child wished to be present ...</p>	See comment above.
			<p>JV-430, item 3b(2)(a): Suggest deletion of “to enable the child to be present” (see WIC § 349(d)).</p>	The committee agrees that the language should be deleted because it is unnecessarily redundant of the phrase preceding it: “secure the presence of the child...”
			<p>JV-430, item 11d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –</p> <p>These efforts and the case plan have have not been developed conducted and conducted developed to the maximum extent ...</p>	The suggested change has been made.
			<p>JV-430, item 15b: Change name of form JV-535 to “Order Designating Educational Rights Holder.”</p>	The suggested change has been made.
			<p>JV-430, item 22a(2): Insert “the support person’s” before “relationship(s).”</p>	The suggested change has been made.
			<p>JV-430, items 24a & 24c: Change “<i>Permanency</i>” to “<i>Prepermanency</i>.” Note: This change should be made to the titles of JV-432 and JV-433 as well (or conversely, all three forms should use</p>	The committee has elected to maintain the current form names. A hearing where a child’s custody status is resolved through reunification with a parent (form JV-431) or where services are being

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	Commenter	Position	Comment	Committee Response
			“Permanency” for consistency). Note: The forms for 12-month reviews use “ <i>Permanency</i> .”	terminated (form JV-433) are framed as permanency hearings, because the court is proceeding from efforts to reunify the child with the parents to efforts to finalize a permanent plan for the child either through reunification or an alternative plan (see 45 C.F.R. §§ 1355.20).
			JV-432, item 4: Insert space between the section symbol (§) and “366.1(l).”	The suggested change has been made.
			JV-432, items 5a & 9b: Change “item 26” to “item 28.”	The suggested change has been made.
			JV-432, item 8c: Suggested edit – A diligent search was made for a placement with a member of the child’s extended family, or in a foster home licensed, approved, or specified by the Indian child’s tribe, ...	The committee does believe a comma is needed after “family.” “Or” has been added.
			JV-432, item 9: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-432, item 9b: Suggested edit – does not continue to be is no longer the most appropriate placement for the child ...	The suggested change has been made.
			JV-432, item 10d: Add “s” – extended family members	The suggested change has been made.
			JV-432, item 10d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –	The suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			<p>These efforts and the case plan _____ have _ have not been developed conducted and conducted developed to the maximum extent ...</p> <p>JV-432, item 11: Delete space between “§ 361.5(a)” and “(1)(C)” and suggested edit –</p> <p>... if the siblings were removed from the home at the same time as described in Welf. & Inst. Code, § 361.5(a)(1)(C), and who they remain placed together:</p> <p>JV-432, item 11b(1): Suggested edits –</p> <p>(1) Having considered the relevant evidence, including the following factors:</p> <ul style="list-style-type: none"> i. Wwhether there has been significant progress in resolving the problems that led to the removal,; ii. Wwhether the capacity and ability to complete the objectives of the treatment plan and to provide for the child's safety, protection, physical and emotional health, and special needs has been demonstrated,; and iii. Wwhether there has been consistent and regular contact and visitation with the child,; iv. The court finds there is a substantial probability ... 	<p>The language has been changed from the original language that circulated for comment to mirror the language in Welfare and Institutions Code section 361.5(a)(1)(C).</p> <p>The suggested change has been made (currently in item 11(d)(1)).</p> <p>-</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-432, item 13: Suggested edits –</p> <p>The likely date by which the child may be returned to and safely maintained in the home, or placed for adoption, tribal customary adoption, or legal guardianship, or placed with a fit and willing relative or in another planned permanent living arrangement is ...</p>	<p>The committee elects to maintain the language on the form because the language aligns with the statutory language of Welfare and Institutions Code section 366(a)(2).</p>
			<p>JV-432, item 14: Suggested edit – Child is 10 years of age or older and has been ...</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 5a: Change “item 26” to “item 28.”</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 8c: Suggested edit –</p> <p>A diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...</p>	<p>The committee does believe a comma is needed after “family.” “Or” has been added.</p>
			<p>JV-433, item 9: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 9b: Suggested edit –</p> <p>does not continue to be is no longer the most appropriate placement for the child ...</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 10d: Suggested edit (so “efforts” were “conducted” and “case plan” was</p>	<p>The suggested change has been made.</p>

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	Commenter	Position	Comment	Committee Response
			<p>“developed”) –</p> <p>These efforts and the case plan _ have _ have not been developed conducted and conducted developed to the maximum extent ...</p>	
			<p>JV-433, item 11c: Change “was” to “is” (“There was is clear and convincing evidence ...”).</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 14: Change “department” to “agency.”</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 17b: Insert comma after “evidence.”</p>	<p>The suggested change has been made.</p>
			<p>JV-433, item 18b: Suggested edit (alternatives) - The child shall remains in foster care ... The child is ordered to remains in foster care ...</p>	<p>The second suggested change has been made. Rules of Court do not use “shall” because the term is ambiguous. The term “must” or “will” is used when the sense is “to have a duty to.”</p>
			<p>JV-433, item 18a: Suggested edit – The court asked the child where he or she the child wants to live, and the child provided the following information ...</p>	<p>The suggested change has been made.</p>
			<p>JV-435, item 3b(2)(a): Delete “to enable the child to be present” (see WIC § 349(d)).</p>	<p>The suggested change has been made.</p>
			<p>JV-435, item 11d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –</p>	<p>The suggested change has been made.</p>

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	Commenter	Position	Comment	Committee Response
			<p>These efforts and the case plan _ have _ have not been developed conducted and conducted developed to the maximum extent ...</p>	
			<p>JV-437, item 8c: Suggested edit –</p> <p>A diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...</p>	<p>The committee does believe a comma is needed after “family.” “Or” has been added.</p>
			<p>JV-437, item 9: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).</p>	<p>The suggested change has been made.</p>
			<p>JV-437, item 9b: Suggested edit –</p> <p>does not continue to be is no longer the most appropriate placement for the child ...</p>	<p>The suggested change has been made.</p>
			<p>JV-438, item 3d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –</p> <p>These efforts and the case plan _ have _ have not been developed conducted and conducted developed to the maximum extent ...</p>	<p>The suggested change has been made.</p>
			<p>JV-438, item 4c: Change “was” to “is” (“There was is clear and convincing evidence ...”).</p>	<p>The suggested change has been made.</p>

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	Commenter	Position	Comment	Committee Response
			JV-438, item 11: Insert comma: “There has been a change in the child’s placement, and the child is an Indian child ...”	The suggested change has been made.
			JV-438, item 11c: Suggested edit – A diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...	The committee does believe a comma is needed after “family.” “Or” has been added.
			JV-438, item 12: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-438, item 13: Change “department” to “agency.”	The suggested change has been made.
			JV-438, item 16b: Suggested edit (alternatives) – The child shall remains in foster care ... The child is ordered to remains in foster care ...	The second suggestion has been made. Rules of Court do not use “shall” because the term is ambiguous. The term “must” or “will” is used when the sense is “to have a duty to.”
			JV-438, item 17: Suggest inserting “and” between “older” and “placed.”	The committee has elected not to make the suggested change.
			JV-438, item 17a: Replace “he or she” with “the child”; insert comma after “live.”	The suggested change has been made.
			JV-440, item 3b(2)(a): Suggest deletion of “to enable the child to be present” (see WIC § 349(d)).	The suggested change has been made.
			JV-440, item 11d: Suggested edit (so “efforts” were “conducted” and “case plan” was	The suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			<p>“developed”) –</p> <p>These efforts and the case plan _ have _ have not been developed-conducted and conducted developed to the maximum extent ...</p>	
			<p>JV-440, item 18: Change “item 17” to “item 16.”</p>	<p>The suggested change has been made.</p>
			<p>JV-440, item 18: Change “item 19” to “item 18.”</p>	<p>There is no reference to “item 19” in this section; it appears this suggestion applies to item number 19, the suggested change was implemented there. The reference to item 19 in item 19 has been changed to item 18.</p>
			<p>JV-440, item 22a(2): Insert “the support person’s” before “relationship(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-442, item 3d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) –</p> <p>These efforts and the case plan _ have _ have not been developed-conducted and conducted developed to the maximum extent ...</p>	<p>The suggested change has been made.</p>
			<p>JV-442, item 4c: Change “was” to “is” (“There was is clear and convincing evidence ...”).</p>	<p>The suggested change has been made.</p>
			<p>JV-442, item 10a: Change “item 27” to “item 28.”</p>	<p>The suggested change has been made.</p>
			<p>JV-442, item 11c: Suggested edit –</p>	<p>The committee does believe a comma is needed after “family.” “Or” has been added.</p>

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	Commenter	Position	Comment	Committee Response
			A diligent search was made for a placement with a member of the child's extended family, or in a foster home licensed, approved, or specified by the Indian child's tribe, ...	
			JV-442, item 12: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-442, item 13: Change “department” to “agency.”	The suggested change has been made.
			JV-442, item 16b: Suggested edit (alternatives) – The child shall remains in foster care ... The child is ordered to remains in foster care ...	The second suggestion had been implemented. Rules of Court do not use “shall” because the term is ambiguous. The term “must” or “will” is used when the sense is “to have a duty to.”
			JV-442, item 17: Suggested edit (alternatives) – If a Another planned permanent living arrangement is ordered for a child ren 16 years of age or older:	The committee elects to edit the language so that it mirrors the wording for the same finding on the JV-433 and JV-438: “For children 16 years of age or older placed in another planned permanent living arrangement.”
			JV-442, item 17a: Replace “he or she” with “the child”; insert comma after “live.”	The suggested change has been made.
			JV-442, item 18c: Replace “18” with “17” and renumber subsequent items accordingly.	The suggested change has been made.
			JV-443, item 8c: Suggested edit – A diligent search was made for a placement with a member of the child's extended family, or in a	The committee does believe a comma is needed after “family.” “Or” has been added.

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			foster home licensed, approved, or specified by the Indian child's tribe, ...	
			JV-443, item 9: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-443, item 10: Delete period after “the.”	The suggested change has been made.
			JV-445, item 3b(2)(A): Suggest deletion of “to enable the child to be present” (see WIC § 349(d)).	The suggested change has been made for the reasons stated in a previous response.
			JV-445, item 11a: Change “item 32” to “item 35.”	The suggested change has been made.
			JV-445, item 12: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-445, item 12b: Change “item 32” to “item 35.”	The suggested change has been made.
			JV-445, item 14b(2): Suggested edit (see, e.g., JV-446, item 33) – the county agency is not required to actively involve give the child this opportunity because the child is-was unable, unavailable, or unwilling to participate.	The committee has elected to keep the language as proposed as it is more aligned with language in California Rules of Court, rule 5.708.
			JV-445, item 16a: Change “department” to “agency.”	The suggested change has been made.
			JV-445, item 22a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.
			JV-445, item 31b: Insert “is” before “(specify	The suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			<i>date).</i> ”	
			JV-446, item 3b(2)(A): Suggest deletion of “to enable the child to be present” (see WIC § 349(d)).	The suggested change has been made for reasons stated in a previous response.
			JV-446, item 11b: Change “person specified in item 2a” to “person(s) specified in item 11”; item 2a refers to the report filed by the social worker. Suggested edits – The family is does not in need of further services, and the person(s) specified in item 2a 11 is or are granted physical and legal custody of the child ...	The suggested change has been made.
			JV-446, item 17: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-446, item 18: Change “department” to “agency.”	The suggested change has been made.
			JV-446, item 21: Delete space between “JV-459” and “(A).”	The suggested change has been made.
			JV-446, item 22: Typo – change “compiled” to “complied.”	The suggested change has been made.
			JV-446, item 24a: Change “him or her” to “the child.”	The suggested change has been made.
			JV-446, item 32a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.

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			<p>JV-446, item 36c: Suggested edit (alternatives) – The child shall remains in foster care ... The child is ordered to remains in foster care ...</p>	<p>The second suggested change has been made. Rules of Court do not use “shall” because the term is ambiguous. The term “must” or “will” is used when the sense is “to have a duty to.”</p>
			<p>JV-446, item 37: Suggest inserting “and” between “older” and “placed.”</p>	<p>The committee does believe this change is necessary.</p>
			<p>JV-446, item 37b: Change “he or she” to “the child”; insert comma after “live.”</p>	<p>The suggested change has been made.</p>
			<p>JV-446, item 38: Insert “plan” between “case” and “dated” – “the case plan dated: _____ is appropriate ...” – insert comma after “appropriate.”</p>	<p>The suggested change has been made.</p>
			<p>JV-455, item 3b(2)(A): Suggest deletion of “to enable the child to be present” (see WIC § 349(d)).</p>	<p>The suggested change has been made for reasons stated in a previous comment.</p>
			<p>JV-455, item 11d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) – These efforts and the case plan _ have _ have not been developed-conducted and conducted developed to the maximum extent ...</p>	<p>The suggested change has been made.</p>
			<p>JV-455, item 15b: Change title of form JV-535 to “<i>Order Designating Educational Rights Holder.</i>”</p>	<p>The suggested change has been made.</p>
			<p>JV-455, item 18: Change “item 17” to “item 16.”</p>	<p>The suggested change has been made.</p>

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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	Commenter	Position	Comment	Committee Response
			JV-455, item 19: Change “item 19” to “item 18.”	The suggested change has been made.
			JV-455, item 23a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.
			JV-457, p. 1, right footer: Change “Page 1 of 3” to “Page 1 of 4.”	The suggested change has been made.
			JV-457, item 4d: Suggested edit (so “efforts” were “conducted” and “case plan” was “developed”) – These efforts and the case plan <u>have</u> have not been developed-conducted and conducted <u>developed</u> to the maximum extent ...	The suggested change has been made.
			JV-457, item 5c: Change “was” to “is” (“There was-is clear and convincing evidence ...”).	The suggested change has been made.
			JV-457, item 6c: Suggested edit – A diligent search was made for a placement with a member of the child’s extended family, <u>or</u> in a foster home licensed, approved, or specified by the Indian child’s tribe, ...	The committee does believe a comma is needed after “family.” “Or” has been added.
			JV-457, items 11a & 12b: Change “item 27” to “item 28.”	The suggested change has been made.
			JV-457, item 12: Insert comma after “California” (“... state of California, <u>,</u> and that out-of-state placement ...”).	The suggested change has been made.
			JV-457, item 13: Change “department” to	The suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			“agency.”	
			JV-457, item 14b: Suggested edit (alternatives) – The child shall remains in foster care ... The child is ordered to remains in foster care ...	The second suggestion has been implemented. Rules of Court do not use “shall” because the term is ambiguous. The term “must” or “will” is used when the sense is “to have a duty to.”
			JV-457, item 15: Insert “is” before “ordered.”	The suggested change has been made.
			JV-457, item 15a: Change “he or she” to “the child”; insert comma after “live.”	The suggested change has been made.
			JV-457, item 16e: Insert “in consultation with the child’s tribe,” before “tribal customary adoption for the child.” (See, e.g., JV-433, item 17e.)	The suggested change has been made.
			JV-459(A), left footer: Insert “(A)” after “JV-459.”	The suggested change has been made.
			JV-459(A): Question re last check box – Should this item also order the social worker or probation officer to submit to the court an updated form JV-459(A) within 30 days? (See other forms requiring agency to “submit an updated case plan within 30 days of the date of this hearing.”)	The committee has elected to include another check box allowing for “other orders” that the court deems necessary in the context of the findings on JV-459(A).
			JV-461(A), item 3: Change “department” to “agency.”	The suggested change has been made.
			JV-461(A), items 5a & 5b: Suggested edits – The nonminor dependent would like requests an Indian Child Welfare Act determination. ...	The suggested change has been made.

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SPR22-13

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	Commenter	Position	Comment	Committee Response
			<p>The nonminor dependent would not like does not request an Indian Child Welfare Act determination.</p>	
			<p>JV-461(A), item 10: Question – Should “or 706.5(c)(1)(B)” be added after “§ 366.31(b)(4)” (See JV-462, item 10.)</p>	<p>JV-461(A), which addresses a disposition hearing for a nonminor dependent, only applies in dependency cases (see Welfare and Institutions Code section 358(d)(1)(A)).</p>
			<p>JV-461(A), item 21: Suggested edits (to match “relationships” later in the sentence) –</p> <p>The county agency ... made reasonable efforts to maintain relationships hips between the nonminor dependent and individuals who are important to the nonminor, including efforts to establish and maintain relationships with caring and committed adults</p>	<p>The suggested change has been made.</p>
			<p>JV-461(A), item 26c: Change “reasons” to “reason(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-461(A), item 27c: Change “successful adulthood” to “independence” per WIC § 366.31(d)(2)(G).¹ Question – Should this item be revised to track the statutory language more closely?</p> <p>The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood independence or, for a youth who has chosen to have the Indian Child Welfare Act apply, in consultation with</p>	<p>The committee agrees with the suggested language and that the language should be updated to include “or, for an Indian child, in consultation with the child’s tribe, placed for tribal customary adoption.”</p>

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SPR22-13

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	Commenter	Position	Comment	Committee Response
			<p>the child's tribe, placed for tribal customary adoption is: on (date):</p> <p>¹ “The likely date by which the nonminor dependent may safely reside in the home of the parent or guardian or, if the court is terminating reunification services, the likely date by which it is anticipated the nonminor dependent will achieve independence, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.”</p>	
			<p>JV-461(A), item 28a, first check box: Change “child” to “nonminor.”</p>	<p>The suggested change has been made.</p>
			<p>JV-461(A), item 28b: Question– Should this item also order the social worker to submit to the court an updated form JV-461(A) within 30 days? (See other forms requiring agency to “submit an updated case plan within 30 days of the date of this hearing.”)</p>	<p>The committee believes that this order can be addressed in item 32 under “Other findings and orders.”</p>
			<p>JV-461(A), item 29a(2): Insert “the support person’s” before “relationship(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 11: Change “does include” to “includes” (see JV-461(A), item 11.) Question – Should these items provide a check box for the possibility that the TILCP does <i>not</i> include a plan to satisfy a criterion in § 11403(b)? (See items 12-20 [“was/was not”].)</p>	<p>The suggested change has been made.</p> <p>If the court is not able to make the finding, the committee believes that it is sufficient for the court to not make this finding by not checking the check box.</p>
			<p>JV-462, item 16: Change “he or she needs” to “they need.”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 22: Change “department” to “agency.”</p>	<p>The suggested change has been made.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-462, item 23: Suggested edits (to match “relationships” later in the sentence) –</p> <p>The county agency ... made reasonable efforts to maintain relationships between the nonminor dependent and individuals who are important to the nonminor, including efforts to establish and maintain relationships with caring and committed adults</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 29a, first check box: Change “child” to “nonminor.”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 29a, third check box: Change “child’s” to “nonminor’s” or “their” (in two places).</p>	<p>The first suggestion to replace “child’s” with “nonminor’s” has been made.</p>
			<p>JV-462, item 29b: Question– Should this item also order the social worker to submit to the court an updated form JV-461(A) within 30 days? (See other forms requiring agency to “submit an updated case plan within 30 days of the date of this hearing.”)</p>	<p>The committee believes that this order can be addressed as an "Other findings or orders" in item 32.</p>
			<p>JV-462, item 30a(2): Insert “the support person’s” before “relationship(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 33c: Change “successful adulthood” to “independence” per WIC § 366.31(d)(2)(G).² Question – Should this item be revised to track the statutory language more closely?</p>	<p>The committee agrees that the language should reference “independence” and be updated to include “or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.”</p>

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	Commenter	Position	Comment	Committee Response
			<p>The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood-independence or, for a youth who has chosen to have the Indian Child Welfare Act apply, in consultation with the child's tribe, placed for tribal customary adoption is: ² “The likely date by which the nonminor dependent may safely reside in the home of the parent or guardian or, if the court is terminating reunification services, the likely date by which it is anticipated the nonminor dependent will achieve independence, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.”</p>	
			<p>JV-462, item 33d(2)(a): Typo – Change “of” to “or” before “guardian(s).”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 35a: Typo – Change “Welf.” To “Welf.”</p>	<p>The suggested change has been made.</p>
			<p>JV-462, item 35b: For consistency, change “under rule 5.555 of the California Rules of Court to “(Welf. & Inst. Code, § 391; Cal. Rules of Court, rule 5.555).”</p>	<p>The suggested change has been made.</p>
			<p>JV-642, title & center footers on all 4 pages: Change “DELINQUENCY” to “JUSTICE.”</p>	<p>The committee considered changing all references of delinquency to juvenile justice prior to circulating the proposal for comment. Since the Welfare and Institutions Code still uses “delinquency” the committee elected to wait for the legislature to address this language before making a change to forms and rules.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-642, item 10: Question – Per discussions with Ann Gilmour,³ courts should do further inquiry both when there is reason to know and when there is reason to believe. Should item 10b therefore read, “The court finds there is reason to believe or reason to know the child is an Indian child; ...”?</p> <p>³ Email from Joan Tillman dated 4-7-22, forwarding Ann Gilmour’s reply: “So even in those cases where you have “reason to know” the child is an Indian child at the outset of the case, there is an obligation to do the further inquiry set out in WIC 224.2 (e) to gather the necessary family background information to determine the child and families relationship to the tribe and provide that information to the tribe so that the tribe can make a determination about whether the child is in fact a member or eligible for membership in the tribe. This is referenced in WIC 224.2(g) which discusses the need to confirm by way of report, etc. that the agency has used due diligence to identify and work with all tribes where there is reason to know the child may be a member. Again this language is taken directly from the federal regulations, and though it does not use the “further inquiry” terminology, in fact “further inquiry” is what is required to fulfill this obligation.” See also CRC 5.481(a)(4) [triggering a duty of further inquiry even when the court or agency knows or has reason to know].)</p> <p>JV-642, item 10c(2): Question – Should “is required to” be changed to “is ordered to”? If not, can it be simplified by changing it to “Probation must exercise due diligence ...”?</p> <p>JV-642, item 10c(4): Capitalize “the” – The court will treat the child ...</p>	<p>The committee declines to add language requiring the further inquiry required by Welfare and Institutions Code section 224.2(e) where there is reason to know the child is an Indian child. The requirements in section 224.2(e) apply when there is reason to believe the child may be an Indian child. Section 224.2(g) applies when there is reason to know the child is an Indian child. It requires the agency to exercise due diligence to identify and work with all of the tribes of which the child may be a member or eligible for membership consistent with the language contained in item 10(c)(2).”</p> <p>The committee agrees to simplify the language. The form has been updated to say “the probation department must exercise due diligence...” The latter suggested change has been made.</p> <p>The suggested change has been made.</p>

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	Commenter	Position	Comment	Committee Response
			JV-642, item 10d: Question – Should “member” be followed by “or a citizen” and/or “or eligible for membership in”?	The committee agrees that suggested language should be added; the change has been made.
			JV-642, items 11 & 37: Question – Should there be a check box for “Indian custodian”	The suggested change has been made.
			JV-642, item 12: Question – Should it read, “The court advised the child and parent, legal guardian, or Indian custodian of ...”?	The language has been changed to “parent or guardian” to reflect the language used in section 633 and 700 and rule 5.754.
			JV-642, item 19b: Change “18a” to “19a.”	The suggested change has been made.
			JV-642, item 23: Change “ <i>Transfer</i> ” to “ <i>Transfer-Out</i> .”	The suggested change has been made.
			JV-642, items 25, 37: Question – Should “probation” be “Probation” or “the probation officer”? Start on p 119, JV-642	The first suggested change has been made.
			JV-642, item 36: Question – Should it read, “The child and the parent, or legal guardian, or Indian custodian have been advised ...”?	The language has been changed to “parent or guardian” to reflect the language used in section 633 and 700 and rule 5.754.
			JV-642, item 39: Question – For consistency with the rest of the form, should “minor” be changed to “child”?	The suggested change has been made.
			JV-667, item 4: Suggested edit – Probation is granted the authority to authorize medical, surgical, or dental, or other remedial care under	Consistent with Welfare and Institutions Code section 739, the suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			JV-667, item 6: Change “describe” to described.”	The suggested change has been made.
			JV-667, item 7b(1): Change “ ... or not offered under section 300 et seq. of the Welf. & Inst. Code, § 300 et seq. 361.5(b), 366.21, 366.22, or 366.25.”	The committee agrees that referencing the applicable code sections provides an important clarification when making the finding in item 7(b)(1).
			JV-667, item 7b(3): Suggest changing “regarding” to “to” – “rights of that parent to a sibling.”	The committee believes the language as proposed is sufficient.
			JV-667, item 9b(2): Change “he or she” to “the child.”	The suggested change has been made.
			JV-667, item 11: Change “office” to “officer.”	The language has been changed to reference “probation department.”
			JV-667, item 11b(3): Suggest changing to “until the requirements of the program has have been satisfactorily completed.”	The suggested change has been made.
			JV-672, title: Change “DELINQUENCY” to “JUVENILE JUSTICE.”	The committee considered changing all references of delinquency to juvenile justice prior to circulating the proposal for comment. Since the Welfare and Institutions Code still uses “delinquency” the committee elected to wait for the legislature to address this language before making a change to forms and rules.
			JV-672, item 1a: Suggest adding “officer” or “department” after “probation.”	The latter suggested change has been made.
			JV-672, items 4 & 5: Question – Should “their parent or legal guardian” be changed to “their	Since Welfare and Institutions Code section 727.2(f) does not reference return to an Indian

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	Commenter	Position	Comment	Committee Response
			parent, legal guardian, or Indian custodian”?	custodian, the committee did not make this change.
			JV-672, items 7b, 9, 11b, 12, 21a: Suggest changing “probation” to “the probation officer.”	The committee notes that Welfare and Institutions Code section 727.2 refers to “probation officer” and “probation department.” Depending on which term is used for the applicable finding, the committee uses that term on the forms.
			JV-672, item 11: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-672, item 17: Should there be a check box for indicating that the case plan is deficient and needs to be revised, e.g., “The services set forth in the case plan _____ include _____ do not include those needed ...”? (See, e.g., JV-455, item 21.)	Since Welfare and Institutions Code section 727.2(e)(6)(A) requires that “the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to successful adulthood.” And “(B) The court shall make these determinations on a case-by-case basis and reference in its written findings the probation officer’s report and any other evidence relied upon in reaching its decision,” the committee agrees that the additional checkboxes referenced should be included on the form.
			JV-672, item 18a, b, c, and 26: Should there be check boxes for Indian custodian? (Arguably, an Indian custodian can be indicated by “other.”)	Since only a very small number of cases involve an Indian custodian, the “other” box can be used to list such person when it applies in item 18. “Other” has also been added to item 26.
			JV-672, line above item 29: Delete “Parentage” and move it to line above item 30.	The suggested change has been made.

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	Commenter	Position	Comment	Committee Response
			JV-672, item 29a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.
			JV-674, title: Change “DELINQUENCY” to “JUVENILE JUSTICE.”	The committee considered changing all references of delinquency to juvenile justice prior to circulating the proposal for comment. Since the Welfare and Institutions Code still uses “delinquency” the committee elected to wait for the legislature to address this language before making a change to forms and rules.
			JV-674, item 1a: Suggest adding “officer” or “department” after “probation.”	The suggested change has been made and text will read “probation officer”.
			JV-674, items 4 & 5: Question – Should “their parent or legal guardian” be changed to “their parent, legal guardian, or Indian custodian”?	Since Welfare and Institutions Code section 727.3(b) does not reference return to an Indian custodian, the committee declines to make this change.
			JV-674, items 7b, 9, 11b, 12, 24a: Suggest changing “probation” to “the probation officer.”	The suggested change has been made.
			JV-674, item 11: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-674, item 16b(1): Insert comma after “reasonable services.”	The suggested change has been made.
			JV-674, item 16b(2): Change “Other” to “other.”	The suggested change was not made as the committee believes capitalization in this context is correct.

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SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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	Commenter	Position	Comment	Committee Response
			JV-674, item 17(b)(3): Should there be a check box for emancipation? (See WIC §727.3(b)(6)(A).)	A check box option for emancipation in item 17(c) was created consistent with Welfare and Institutions Code section 727.3(b)(6)(A).
			JV-674, item 18(b) parenthetical: Change “item 15a” to “item 16a.”	The suggested change has been made.
			JV-674, line above item 19: Suggest adding “and” after “older” – “... 16 years of age or older and placed in another ...”	The committee does not believe this change is necessary.
			JV-674, item 19(a): Insert comma after “live.”	The suggested change has been made.
			JV-674, item 20: Should there be a check box for indicating that the case plan is deficient and needs to be revised, e.g., “The services set forth in the case plan <u>include</u> do not include those needed ...”? (See, e.g., JV-455, item 21.)	The suggested change has been made.
			JV-674, item 24(b): Insert comma between “child” and “and.”	The suggested change has been made.
			JV-674, item 25: Insert comma between “jurisdiction” and “and.”	The suggested change has been made.
			JV-674, items 29 & 30: Should there be check boxes for Indian custodian?	Since neither Welfare and Institutions Code section 739 nor California Rules of Court, rule 5.650 reference an Indian custodian, the committee declines to make this change. But a check box for “other” has been added.
			JV-674, item 32a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.

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SPR22-13

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	Commenter	Position	Comment	Committee Response
			JV-678, title: Change “DELINQUENCY” to “JUVENILE JUSTICE.”	The committee considered changing all references of delinquency to juvenile justice prior to circulating the proposal for comment. Since the Welfare and Institutions Code still uses “delinquency” the committee elected to wait for the legislature to address this language before making a change to forms and rules.
			JV-678, item 1a: Suggest adding “officer” or “department” after “probation.”	The first suggested change has been made.
			JV-678, item 4: Question – Should “their parent or legal guardian” be changed to “their parent, legal guardian, or Indian custodian”?	Since Welfare and Institutions Code section 727.3(b) does not reference return to an Indian custodian, the committee declines to make this change.
			JV-678, items 7b, 9, 13 (in two places), 21b: Suggest changing “probation” to “the probation officer.”	Probation has been changed to “the probation officer” in item 7b, and “the probation department” in items 9, 13, 21(1) and (2).
			JV-678, item 11: Insert comma after “California” (“... state of California, and that out-of-state placement ...”).	The suggested change has been made.
			JV-678, items 13 & 19: Insert “and” between “older” and “placed.”	The committee does not make the change to be consistent with related language on other forms.
			JV-678, item 16b: Delete “The permanent plan is:” because it is superfluous (see pars. (1) and (2)).	The suggested change has been made.
			JV-678, item 16(b)(2): Should there be a check box for emancipation? (See WIC § 727.3(b)(6)(A).)	An option for emancipation was created consistent with Welfare and Institutions Code section 727.3(b)(6)(A).

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	Commenter	Position	Comment	Committee Response
			JV-678, item 19(a): Insert comma after “live.”	The suggested change has been made.
			JV-678, item 20: Should there be a check box for indicating that the case plan is deficient and needs to be revised, e.g., “The services set forth in the case plan _____ include _____ do not include those needed ...”? (See, e.g., JV-455, item 21.)	The suggested change has been made.
			JV-678, item 24: Insert comma between “jurisdiction” and “and.”	The suggested change has been made.
			JV-678, items 28 & 29: Should there be check boxes for Indian custodian?	Since neither Welfare and Institutions Code section 739 nor California Rules of Court, rule 5.650 reference an Indian custodian, the committee declines to make this change.
			JV-678, item 30: Change “Child” to “child.”	The suggested change has been made.
			JV-678, item 30a(2): Insert “the support person’s” before “relationship(s).”	The suggested change has been made.
11.	Superior Court of Stanislaus County by Sandy Almansa Court Supervisor	AM	Should Form JV-235 include the placement address? Yes, this would be very helpful to those effecting service.	The committee agrees that including the placement address will ensure that the correct placement is reviewed and will help effectuating service.
			Should form JV-446 address the return of the minor to the home of the parent or legal guardian? Yes, if it is an option, it should be included.	The committee believes that it is an option at a postpermanency hearing for the reasons described in the report and the finding has been added to the form.

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SPR22-13

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	Commenter	Position	Comment	Committee Response
			<p>Should forms related to the juvenile court's review of STRTP placement forms (JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?</p> <p>Mandatory forms are preferred, as these forms all contain the required information for the court to process the forms. These forms work well in our court, and the consistency is crucial to timely processing.</p>	<p>After careful consideration, the committee agrees that forms should be kept as mandatory. This promotes uniformity throughout the state and helps ensure procedural compliance with the applicable statutes and rules for a relatively new process. In addition, parties benefit from the information in the mandatory forms that are served on them.</p>
			<p>Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?</p> <p>The only modifications we would suggest would be to require the forms to be mandatory, and not optional.</p>	<p>The committee agrees that the forms should remain mandatory and California Rules of Court, rule 5.618 has been updated to reflect that the forms are mandatory.</p>
			<p>Should the rule include a timeline for the filing and serving of the objection to the STRTP or should this be left to local courts to determine, as the current rule requires?</p> <p>A timeline would be very helpful. The process can be confusing to court users, and a timeline might help clarify questions users may have regarding filing deadlines. This is the area where we receive the majority of questions.</p>	<p>The committee has elected to not include a timeline for the filing of an objection. Local courts have managed this process without a specific timeline in the rule since the rules effective date of October 1, 2021. The committee believes that giving courts some discretion on this aspect of the process benefits courts and parties. The committee however appreciates the concerns raised in this comment and will consider it in future proposals involving California Rules of Court, rule 5.618.</p>
			<p>Would the proposal provide cost savings?</p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>No</p> <p>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?</p> <p>Changes will be needed to the court's CMS and e-filing systems. Work orders with Tyler will be needed, and may take a few weeks to add.</p> <p>Procedural changes - 1-2 hours by Court Supervisor; training in clerk's office - 1-2 hours (Legal Clerks I, II, III, IV and Courtroom Clerk).</p> <p>Communication of changes with local dependency partners - 1-2 hours - may involve clerks, courtroom staff, and local agency stakeholders.</p>	<p>The committee understands that courts may have additional implementation requirements due to this proposal and hopes that these additional implementation requirements are not too burdensome. The proposal had to circulate a second time to provide an opportunity for courts and justice partners to provide input on procedures developed based on the enacted legislation and meet the requirement that all rules and forms changes circulate for public comment.</p>
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes</p>	<p>No response required.</p>
			<p>How well would this proposal work in courts of different sizes?</p>	<p>The committee has elected to keep the forms mandatory.</p>

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			As long as forms are mandatory and there is a level of consistency, it should work well in all sizes of courts.	
12.	Youth Law Center by Jenny Pokempner		<p>Does the proposal appropriately address the stated purpose?</p> <p>We suggest the following changes to ensure that the proposed rule achieves the purpose of the law to ensure that children and youth are placed in family settings and further, that if they are placed in the restrictive setting of an STRTP the processes required by state and federal law are followed and the due process rights of children are adequately protected.</p> <p><u>Rule 5.618 Placement in short-term residential therapeutic program;</u></p> <p>Section (c) Setting the hearing</p> <p>We recommend that this section be revised to require the court to schedule a hearing in all cases where the placing agency is proposing an STRTP <i>prior</i> to the placement except in the case of an emergency.</p> <p>Proposed language (added language is highlighted in yellow):</p> <p>Setting the hearing. The court must set a</p>	<p>The committee appreciates this suggestion as it ensures that the consideration of the appropriateness of the placement is made as early as possible and prior to the start of the placement. However, creating a more restrictive timeline than what is in statute cannot be done in a rule of court. The Judicial Council cannot create a rule that is inconsistent with statute (Cal. Const., art. VI, § 6, subd. (d); § 265).</p>

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	Commenter	Position	Comment	Committee Response
			<p>hearing under section 361.22(d) or 727.12(d) prior to the placement of a child or non-minor dependent in a short-term residential therapeutic program except in the case of an emergency placement. In the case of an emergency, the court shall set a hearing after receiving a request for a hearing to be held within 45 days of the start of the short-term residential therapeutic program placement. The court must provide notice of the 9 hearing to the following:</p> <p>In the alternative, we recommend that a new subsection is added to section (c) that allows a request and scheduling of a hearing prior to placement in an STRTP. The process to determine whether placement in an STRTP is appropriate, including court approval, should occur <i>prior</i> to that placement unless the placement is made under emergency circumstances.</p> <p>Proposed language: (c)(new number) The court must set a hearing under section 361.22(d) or 727.12(d) after receiving a request for a hearing from any party when the agency is proposing an STRTP placement. The hearing must be held within 45 days of the request.</p> <p>Rationale: We recommend these changes because the current rule only allows a hearing to be set once an STRTP placement has been made.</p>	<p>The committee appreciates the recommendation to review these placements as early as possible, but the committee does not believe it is necessary for the rule to clarify that the placement can be reviewed by the court prior to the placement being made and doing so would also be creating a requirement that would be inconsistent with the timelines created by AB 153. The timelines in Welfare and Institutions Code sections 361.22 and 727.12 do not prohibit the review of the placement prior to the placement, they only require that the review occur prior to 45 days of the start of the placement. If this review can occur earlier or even before the placement starts, the committee believes the statutory language leaves the door open for this to occur.</p> <p>In addition, the committee believes that implementing this suggestion would create a process that would be too burdensome to</p>

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	Commenter	Position	Comment	Committee Response
			<p>The federal and state law envisioned the planning and court approval process would occur prior to a placement to promote placement stability and to ensure the proper process occurs prior to a placement in one of the most restrictive settings. As written, the current rule promotes seeking approval only after placement, threatening instability and assumes all placement will be made emergently.</p> <hr/> <p>Section (f) Approval without a hearing</p> <p>We recommend that this section be deleted.</p> <p>Rationale: Federal law requires that the court approve or disapprove of an STRTP placement. 42 U.S.C.A. 675a(c)(2)(C). We believe this requirement, in addition to the youth’s due process rights, include a hearing after which the court makes an independent determination. We believe the requirement for a hearing is also supported by the obligation of the court to consult with the child on the permanency and case plan. 42 U.S.C.A. 675 (5)(C).</p>	<p>implement for courts, and it would not be appropriate for the committee to make this change instead of the legislature. The committee also does not agree that FFPSA and AB 153 envisioned the review occurring prior to the start of the placement. The timelines for the courts review in both the federal and state statutes are based on when the placement begins. If the intent of these statutes were that the placement be reviewed prior to the start of the placement, the legislature would have written this into the statute. Further, the suggested timeline would not be possible if the initial placement at the start of a case was a STRTP.</p> <hr/> <p>The committee appreciates this suggestion to ensure families have their day in court but does not agree with the suggestion of deleting subdivision (f) of the rule, because the legislature required the Judicial Council to create this process (see Welfare and Institutions Code sections 361.22(h) and 727.12(h)). Furthermore, nothing in section 675a subdivision (c) of title 42 of the United States Code specifies <i>how</i> the court must review the placement including without a hearing, the federal law only requires that the placement be reviewed by the court. California through AB 153 has chosen to include the option for this review to occur without a hearing. In response to the legislative directive in sections 361.22(h) and 727.12(h), the committee proposed and the</p>

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			<p>Section (g) Conduct of the hearing</p> <p>We recommend that the following subsection be added to highlight a critical piece of state and federal law, which serves a protection for the child. 42 U.S.C.A. 675a(c)(1)(C).</p> <p>Proposed language: (g)(number) The court cannot approve an STRTP placement based solely on an existing shortage or lack of family homes. STRTP placement must be required to meet the unique and significant needs of the child.</p> <p>Rationale: While the proposed rule cites to rather than repeating the language of WIC 361.22, we believe the language cited above, which prohibits</p>	<p>Judicial Council adopted California Rules of Court, rule 5.618 subdivision (f), permitting the court to review the placement without a hearing only if certain conditions are met. The parties must have been given an opportunity to object ten court days before the hearing and the placement can be reviewed without a hearing only if no party has objected to the placement. The committee believes that these procedures ensure that a party’s due process rights are maintained, because if any party objects, the court must hold the hearing. The committee created a generous timeline to give parties sufficient time to receive the report, review it, and prepare a response.</p> <p>Since this language is stated in Welfare and Institutions Code sections 361.22(e) and 727.12(e), the committee does not believe that reiterating it in the rule is necessary and that doing so would be an unnecessary redundancy and raises the risk of creating a possible discrepancy between the rule and the statute. The Judicial Council generally seeks to eliminate redundancies of statutory language in its rules of court. The committee however acknowledges the importance this language.</p>

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			<p>approval of an STRTP placement based on a shortage of family homes, is so critical to the implementation of these provisions that it warrants inclusion in the rule.</p> <p>Recommendations for a New Form:</p> <p>As stated above, we recommend that the rule is revised to require a hearing to approve an STRTP placement prior to the placement except in emergencies. In the alternative, we recommended language to allow the filing a request for a hearing prior to placement. If this alternative is accepted, we recommend that a form be developed so that any party can request a hearing related to the proposal for an STRTP placement.</p>	<p>See response above.</p>
			<p>Should form JV-235 include the placement address?</p> <p>Due to the array of placements that could be part of one provider, we agree that providing the specific placement address is critical to proceedings where the appropriate placement is the main issue.</p>	<p>The committee agrees and JV-235 has been updated to require the placement address.</p>
			<p>Should form JV-446 address the return of the minor to the home of the parent or legal guardian?</p> <p>We agree that the form should address this situation.</p>	<p>The committee agrees that return home is an applicable finding at a postpermanency hearing and the form has been updated accordingly.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Should the forms related to the juvenile court’s review of STRTP placements (forms JV-235, JV-236, JV-237, and JV-239) be mandatory or optional?</p> <p>We recommend that these forms be mandatory to promote uniformity across the state.</p> <p>Does the process to approve the placement without a hearing in rule 5.618(f) appropriately address its stated purpose? Would any modifications to the process improve the process?</p> <p>Section (f) Approval without a hearing As mentioned above, we recommend that this section be deleted. Federal law requires that the court approve or disapprove of an STRTP placement. 42 U.S.C.A. 675a(c)(2)(C). We believe this requirement, in addition to the youth’s due process rights, include a hearing after which the court makes an independent determination. We believe this is also supported by the obligation of the court to consult with the child on the permanency and case plan. 42 U.S.C.A. 675 (5)(C).</p> <p>Should the rule include a timeline for the filing and serving of the objection to the STRTP, or should this be left to local courts to determine, as the current rule requires?</p>	<p>The committee agrees that mandatory forms help promote consistency with statutory and rule requirements and the forms have been maintained as mandatory.</p> <p>See response above.</p> <p>The committee did not include a timeline in the rule because it believes that giving courts flexibility in the filing of the objection form can be beneficial for courts and parties.</p>

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			<p>We recommend there should be a timeline to promote uniformity across the state.</p> <hr/> <p>Rules 5.697 and 5.903</p> <p>While the idea of deleting the language and simply referencing the statute to avoid the need for future revisions makes some sense, the way this is constructed could actually lead to greater confusion and nonetheless require revision. The amendments delete provisions and insert references to the relevant laws. In doing so, they include the subsections and subdivisions to provide specificity. These numbers often change when statutes are amended. This could mean that the rule references the wrong provisions. Even if the substance of the original reference does not change, the rule will need revision as it will reference requirements and provisions not intended. To avoid this, we recommend either 1) only referencing the statute and not the particular subsection or subdivision, or 2) leaving the language of the particular provision in the rule so that there is, at least, clarity as to what the rule initially intended.</p> <hr/> <p>Reasonable efforts to locate a missing child.</p> <p>We recommend the following changes in wording and that an additional item is added to the inquiries related to youth who are or were missing</p>	<p>The committee appreciates that there may be a need to amend the rule again to reflect changes in the statute and agrees that referencing the statute without subdivisions is appropriate. The rule has been updated to reference Welfare and Institutions Code section 366.31.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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

	Commenter	Position	Comment	Committee Response
			<p>from placement. The recommended language is highlighted in yellow.</p> <p><input type="checkbox"/> The child is missing or has left their run away from placement without providing contact information. Out-of-home placement continues to be necessary.</p> <p>The placement <input type="checkbox"/> was <input type="checkbox"/> was not appropriate.</p> <p>If the youth or non-minor dependent has been located, list the efforts that have been made to re-engage them in services and identify the reasons that the youth or non-minor was missing from placement.</p> <p>The county agency <input type="checkbox"/> has <input type="checkbox"/> has not made reasonable efforts to locate the child.</p> <p>Rationale: Our first suggested edits reflect the direction the state has moved in to not use the term run away and rather describe the situation as a youth who has left or is missing from placement.</p> <p>In addition to requiring that efforts be made to locate a young person missing from foster care, the Preventing Sex Trafficking and Strengthening Families Act requires that actions are taken to understand why a youth left care to ensure their needs are met and reduce the chance of a youth leaving care again. Our recommendations reflect</p>	<p>The committee agrees with removing the language that the youth has run away from their placement. The language has been updated to “the child has left their placement and their whereabouts are unknown.”</p> <p>The committee appreciates this suggestion, but because it would be a substantive change that would need to be circulated for comment, and because making such a factual finding is not a requirement of statute, the committee is not including it in the form. See response below for more information. The committee will however consider the comment again in a future cycle.</p> <p>The committee notes that the requirements created under the Preventing Sex Trafficking and Strengthening Families Act were incorporated into California law by Senate Bill 794 (Comm. on Hum. Svcs; Stats. 2015, ch. 425), adding Welfare and Institutions Code sections 16501.35 and 16501.45. SB 794 however did not create a requirement that the juvenile court review the responsibilities created for placing agencies in sections 16501.35 and 16501.45. So, while the committee acknowledges the importance of these efforts, it does not agree with creating a new</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR22-13

Juvenile Law: Short-Term Residential Therapeutic Program Placement (amend Cal. Rules of Court, rules 5.618, 5.697, and 5.903; adopt form JV-240; approve form JV-459(A); and revise forms JV-235, JV-236, JV-237, JV-238, JV-239, JV-320, JV-410, JV-421, JV-430, JV-432, JV-433, JV-435, JV-437, JV-438, JV-440, JV-442, JV-443, JV-445, JV-446, JV-455, JV-457, JV-461(A), JV-462, JV-642, JV-667, JV-672, JV-674, and JV-678)

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

	Commenter	Position	Comment	Committee Response
			these requirements, which are found at 42 U.S.C.A. 671 (35)(A)(ii) & (iii)(determining the primary factors that contributed to the child’s running away or otherwise being absent from care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements; determining the child’s experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim (as defined in section 675(9)(A) of this title).	review requirement for the juvenile court that do not exist in statute.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Rules and Forms: Small Estate Disposition

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
 Revise forms DE-305 and DE-310

Committee or other entity submitting the proposal:
 Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended February 15, 2022
 Project description from annual agenda: Develop recommendation to adopt one form and revise three forms for use in proceedings to dispose of decedents' estates without administration. Assembly Bill 473 (Stats. 2019, ch. 122) added section 890 to the Probate Code to require the Judicial Council, by April 1, 2022, to adjust and publish a list of specified property values used for determining eligibility for disposition of decedents' estates without probate administration. To implement this legislative mandate, the council must adopt the new form and revise the existing forms before April 1, 2022. Originally envisioned as part of a staff technical report, the revisions required by this project are too complex for that process, and the committee's expertise is needed to review the recommendation before its submission to the council. To present the required forms to the Judicial Council for adoption and revision by the legislatively mandated effective date, the committee must work on them in the 2022 committee year.

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

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

The Judicial Council approved, effective April 1, 2022, the committee's recommendation to adopt form DE-300 and revise forms DE-305, DE-310, and DE-315 in partial implementation of Probate Code section 890 (added by AB 473). Because of insufficient time between the publication of the December 2021 Consumer Price Index data on January 12, 2022, and the required effective date of April 1, 2022, the council approved the recommendation without circulating it for comment. The Rules Committee approved circulating the forms for comment after approval, in the spring 2022 cycle. The advisory committee recommends minor revisions to forms DE-305 and DE-310, but no revisions to forms DE-300 and DE-315. The last two forms are therefore omitted from the attached report.

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

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

This proposal:

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

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

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

- **Self-Help Website** (check if applicable)
 - This proposal may require changes or additions to self-help web content.



JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.:

For business meeting on September 20, 2022

Title	Agenda Item Type
Rules and Forms: Small Estate Disposition	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms DE-305 and DE-310	January 1, 2023
Recommended by	Date of Report
Probate and Mental Health Advisory Committee	July 25, 2022
Hon. Jayne Chong-Soon Lee, Chair	Contact
	Corby Sturges, 415-865-4507 corby.sturges@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee recommends revising two forms used in proceedings for the summary disposition of property in estates of small value. Effective April 1, 2022, and without circulation for comment, the Judicial Council adopted one form and revised three forms, including the two in this report, to comply with a statutory mandate to adjust dollar amounts related to small estate disposition and to publish the adjusted amounts. Having circulated the forms for comment, the committee now recommends these revisions.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

1. Revise *Affidavit re: Real Property of Small Value* (form DE-305) to clarify that the declarant must attach form DE-300 to the affidavit if the decedent died on or after April 1, 2022; and
2. Revise *Petition to Determine Succession to Real Property* (form DE-310) to clarify that the declarant must attach form DE-300 to the petition if the decedent died on or after April 1, 2022, and to make technical changes to improve usability.

The proposed revised forms are attached at pages 5–8.

Relevant Previous Council Action

Effective April 1, 2022, the Judicial Council adopted form DE-300 and revised forms DE-305, DE-310, and DE-315 to implement a mandate in Probate Code section 890 to determine and publish adjusted amounts for use in determining the eligibility of property and decedents' estates for summary disposition procedures.¹ The recommendation was adopted without circulation for comment because the time between the publication of the December 2021 Consumer Price Index data, which were needed to calculate the adjustments, and the effective date of the required adjustment based on that data was too short to allow for circulation.

Analysis/Rationale

The Judicial Council adopted form DE-300 for mandatory use and revised forms DE-305, DE-310, and DE-315 to fulfill the mandate in Probate Code section 890.² That statute requires the Judicial Council, on April 1, 2022, and at each three-year interval thereafter, to adjust the dollar amounts specified in chapter 6 (commencing with section 6600) of part 3 of division 6 and in division 8 (commencing with section 13000) of the Probate Code in effect immediately before that date. These amounts set upper limits on the property values that determine eligibility for disposition of small estates without full probate administration.

The statute requires the council to determine the amount of each required adjustment based on the change in the United States city average of the “Consumer Price Index for All Urban Consumers” from the December “40 months prior to the adjustment” (this year, December 2018) to “the December immediately preceding the adjustment” (this year, December 2021) and to round each adjusted amount to the nearest \$25.³ The council must also, as of April 1 of each year in which an adjustment is required, publish a list of the adjusted values and the date of the next scheduled adjustment.⁴ Form DE-300, adopted by the Judicial Council effective April 1, 2022, fulfills the publication mandate by listing each code section that specifies a maximum value, briefly describing the property to which that section applies, listing the adjusted value for that section, and giving the date of the next scheduled adjustment.

Sections 13101, 13152, 13200, and 13601, which specify procedures for disposition of specific types of property in small estates without full probate administration, also require an affiant, declarant, or petitioner who seeks to use the procedure authorized by any of those sections to

¹ Judicial Council of Cal., Advisory Com. Rep., *Rules and Forms: Small Estate Disposition* (Feb. 23, 2022), <https://jcc.legistar.com/View.ashx?M=F&ID=10564750&GUID=F84A8EC1-DC5B-4B42-B226-8003E3C7703D>.

² Prob. Code, § 890 (added by Assem. Bill 473; Stats. 2019, ch. 122, § 1). All further statutory references are to the Probate Code unless otherwise specified.

³ *Id.*, § 890(b).

⁴ *Id.*, § 890(c).

attach the published list to the affidavit or petition.⁵ For this reason, the council adopted form DE-300 for mandatory use.

Policy implications

The committee's recommended revisions are intended to improve the quality of justice and service to the public by clarifying the requirements for completing and filing forms DE-305 and DE-310. No policy implications contributed to controversy or intense debate in the committee.

Comments

The proposal was circulated for public comment in the spring 2022 invitation-to-comment period. Two commenters, the Orange County Bar Association and the Superior Court of San Diego County, responded. Both commenters agreed with the proposal and suggested modifications. Based on these suggestions, the committee recommends revising item 4 on form DE-305 and item 8 on form DE-310 to distinguish more clearly the alternative dollar amounts and, as suggested by the Superior Court of San Diego County, to indicate that form DE-300 must be attached to form DE-305 or DE-310 if the decedent died on or after April 1, 2022.⁶ These revisions will give declarants and petitioners better notice of the requirement to attach form DE-300 in appropriate cases.

The San Diego court also noted a lack of clarity regarding how to enforce the requirement to attach form DE-300 to an affidavit or declaration under section 13101 (to collect money, tangible personal property, or evidence of intangible personal property) or section 13601 (to collect compensation owed to a decedent). Such an affidavit requires submission to the holder of the property to which the affiant is claiming succession or the decedent's employer, respectively, but does not require filing with the court or any court supervision or other involvement. Under the statutory scheme at issue, succession to personal property or collection of compensation owed to an estate is a private transaction. The enforcement of the attachment requirement is left to the property holder or the employer. The Judicial Council's purview extends only to rules and forms for *judicial* administration, practice, and procedure.

The Orange County Bar Association suggested that forms DE-305, DE-310, and DE-315 be revised to include a reference to the date of the next required scheduled adjustment to the values specified in those forms. The committee declined to make these suggested changes because, as required by Probate Code section 890(c), form DE-300, which must be attached to forms DE-305 and DE-310, already includes the date of the next scheduled adjustment.

⁵ *Id.*, §§ 13101(f) (affidavit to collect or transfer personal property), 13152(e) (petition to determine succession to real property), 13200(f) (affidavit to collect real property of limited value), and 13601(e)(2) (affidavit to collect compensation owed to deceased spouse).

⁶ Section 13200(f) requires the list of adjusted dollar amounts, that is, form DE-300, to be attached to an affidavit or declaration claiming succession of a decedent who died on or after April 1, 2022, to a particular item of real property. The council adopted form DE-305 to serve as that affidavit or declaration. Section 13152(f)(2) imposes an analogous requirement on a petition for a judicial determination that the petitioner has succeeded to a particular item of real property. The council has adopted form DE-310 to serve as that petition.

A chart of comments is attached at pages 9–12.

Alternatives considered

The committee considered not revising the forms to avoid costs to courts and litigants, but determined that the two revisions recommended would not impose significant costs on courts and would likely reduce delays by leading more litigants to attach form DE-300 to their initial filings.

Fiscal and Operational Impacts

Courts will need to replace paper copies of existing forms DE-305 and DE-310. The revisions should save costs and time for litigants by reducing the number of forms filed without the required attachment.

Attachments and Links

1. Forms DE-305 and DE-310, at pages 5–8
2. Chart of comments, at pages 9–12
3. Link A: Assem. Bill 473 (Stats. 2019, ch. 122) (showing amendments),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200AB473&showamends=true

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.:
 After recording, return to:
 NAME:
 FIRM NAME:
 STREET ADDRESS:
 CITY, STATE, ZIP CODE:
 TELEPHONE NO.: FAX NO.:
 EMAIL ADDRESS:
 ATTORNEY FOR (name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
 STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

DRAFT
Not approved by
the Judicial Council

FOR RECORDER'S USE ONLY

ESTATE OF (name):	CASE NUMBER:
DECEDENT	
AFFIDAVIT RE REAL PROPERTY OF SMALL VALUE	FOR COURT USE ONLY

1. The decedent (name):
 died on (date):
 at (city, state):
2. At least **six months** have passed since the decedent's death. (Attach a certified copy of the decedent's death certificate.)
3. a. The decedent was domiciled in this county at the time of death.
 b. The decedent was **not** domiciled in California at the time of death, but the decedent died owning real property in this county.
4. The **gross value**, on the date of the decedent's death, of all real property in the decedent's estate located in California, as shown by the attached inventory and appraisal—excluding the real property described in Probate Code section 13050—did not exceed (check one):
 a. **\$55,425** (decedent died before April 1, 2022).
 b. **\$61,500** (decedent died on or after April 1, 2022, and form DE-300 is attached as required by law).
5. a. The **legal description** and the Assessor's Parcel Number of the particular item of the decedent's real property claimed by the declarant(s) are provided on an attached page titled Attachment 5a, "Legal Description." (Copy legal description **exactly** from deed or other legal instrument.)
 b. The decedent's interest in this real property is (specify):
6. Name and address of each guardian or conservator of the decedent's estate at time of death: none are as follows:*

<u>Name</u>	<u>Address</u>
-------------	----------------

 Additional guardians or conservators are identified in Attachment 6.
 (* You must deliver a copy of this affidavit and all attachments in **any** manner provided in Probate Code section 1215 to each guardian or conservator named above. You may use Judicial Council form POS-030 for proof of mailing, form POS-020 for proof of personal **delivery**, or form POS-050 for proof of electronic **delivery**.)
7. An inventory and appraisal of all of the decedent's **real property** in California is attached. The appraisal was made by a probate referee appointed by the State Controller for the county in which the property is located. (You must prepare the inventory on Judicial Council forms DE-160 and DE-161. You may select any probate referee appointed for the county to perform the appraisal. A list of all probate referees, shown by county, is available at www.sco.ca.gov/eo_probate_contact.html. Each court also has a list of referees appointed for its county. Check with the probate referee or consult an attorney if you need help preparing the inventory.)
8. a. No proceeding for administration of decedent's estate is now being or has been conducted in California.
 b. The decedent's personal representative has consented in writing to the use of the procedure provided by Probate Code section 13200 et seq. (Attach a copy of the consent and a copy of the personal representative's letters of administration.)

ESTATE OF <i>(name)</i> :	CASE NUMBER:
DECEDENT	

9. Funeral expenses, expenses of last illness, and all known unsecured debts of the decedent have been paid. *(NOTE: You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it.)*
10. The declarant—or a trust or other entity, on behalf of which the declarant is acting—is, or all declarants together constitute, the successor of the decedent (as defined in Probate Code section 13006) to the decedent's interest in the property described in item 5, and no other person or entity has a superior right to the decedent's interest in that property, because the declarant(s) is or are:
- a. ***(if decedent left a will)*** the sole beneficiary or all the beneficiaries who succeeded to the property under the decedent's will. *(Attach a copy of the will.)*
 - b. ***(if decedent died without a will)*** the sole person or all the persons who succeeded to the property under Probate Code sections 6401 and 6402.

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

Date: _____

(TYPE OR PRINT NAME)*

▶

(SIGNATURE OF DECLARANT)

Date: _____

(TYPE OR PRINT NAME)*

▶

(SIGNATURE OF DECLARANT)

SIGNATURES OF ADDITIONAL DECLARANTS ATTACHED

*** A declarant claiming on behalf of a trust or other entity should also state the name of the entity that is a beneficiary under the decedent's will and declarant's capacity to sign on behalf of the entity (trustee, chief executive officer, etc.).**

CERTIFICATE OF ACKNOWLEDGMENT

(NOTE: Do not attach an additional certificate of acknowledgment to this page on a small strip of paper. If you need one or more additional certificates of acknowledgment, attach them to this form on separate, full-sized 8-1/2 by 11-inch pages.)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF CALIFORNIA, COUNTY OF *(specify)*:

On *(date)*: _____, before me *(name and title)*:

personally appeared *(name of each)*:

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that they executed the instrument in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing, including any attached certificates of acknowledgment and any attached legal description of the property (but excluding other attachments), is a true and correct copy of the original affidavit on file in my office. *(Certified copies of this affidavit do not include the (1) death certificate, (2) will, or (3) inventory and appraisal. See Probate Code section 13202.)*

Date: _____ Clerk, by _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF (name): <div style="text-align: right;">DECEDENT</div>	CASE NUMBER: HEARING DATE AND TIME: DEPT.:
PETITION TO DETERMINE SUCCESSION TO REAL PROPERTY <input type="checkbox"/> and Personal Property	

1. Petitioner (name of each person claiming an interest):

requests a determination that the real property and personal property described in item 11 is property passing to petitioner.

2. Decedent (name):

- a. Date of death:
 b. Place of death (city and state or, if outside the United States, city and country):

3. At least 40 days have passed since the decedent's death.

4. a. Decedent was a resident of this county at the time of death.
 b. Decedent was **not** a resident of California at the time of death. Decedent died owning property in this county.

5. Decedent died intestate (without a will) testate (with a will), and a copy of the will is attached as Attachment 5 or 12a.

6. a. No proceeding for the administration of decedent's estate is being conducted or has been conducted in California.
 b. Decedent's personal representative's consent to use the procedure provided by Probate Code section 13150 et seq. is attached as Attachment 6b.

7. Proceedings for the administration of decedent's estate in another jurisdiction

- a. have **not** been commenced.
 b. have been commenced and completed. (Specify state, county, court, and case number):

8. The **gross value**, at the time of decedent's death, of decedent's interest in real and personal property in California—excluding the property described in Probate Code section 13050—as shown by the attached inventory and appraisal did not exceed (check one):

- a. **\$166,250** (decedent died before April 1, 2022).
 b. **\$184,500** (decedent died on or after April 1, 2022, and form DE-300 is attached as required by law).

(Prepare and attach as Attachment 8 an inventory and appraisal of all California property in the estate. (Use Judicial Council forms DE-160 and DE-161.) A probate referee appointed for the county named above must appraise all real property and all personal property other than cash or its equivalent. See Prob. Code, §§ 8901, 8902.)

9. a. Decedent is survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8)):

- (1) spouse
 (2) no spouse, as follows: (a) divorced or never married (b) spouse deceased
 (3) registered domestic partner
 (4) no registered domestic partner (See Fam. Code, § 297.5(c); Prob. Code, §§ 37(b), 6401(c), and 6402.)
 (5) child, as follows: (a) natural or adopted (b) natural adopted by a third party
 (6) no child
 (7) issue of a predeceased child
 (8) no issue of a predeceased child

- b. Decedent is is not survived by a stepchild or foster child or children who would have been adopted by decedent if a legal barrier had not prevented adoption. (See Prob. Code, § 6454.)

ESTATE OF <i>(name)</i> :	CASE NUMBER:
DECEDENT	

10. Decedent is survived by *(complete if decedent is survived by (1) a spouse or registered domestic partner described in Prob. Code, § 37, but no issue (only a or b apply); or (2) no spouse or registered domestic partner described in Prob. Code, § 37, and no issue. Check only the first box that applies.)*
- a. a parent or parents who are listed in item 14.
 - b. a sibling, or issue of a deceased sibling, all of whom are listed in item 14.
 - c. other persons who might be entitled to inherit property if decedent did not have a will, all of whom are listed in item 14.
 - d. no known next of kin.
11. Attachment 11 contains (1) the **legal description** of decedent's California real property and the Assessor's Parcel Number(s) and a description of the personal property in California passing to each petitioner; (2) decedent's interest in the property; and (3) if a petitioner's claim to the property is based on succession under Probate Code sections 6401 and 6402, facts that show the character of the property as community, separate, or quasi-community property.
12. Each petitioner is a successor of the decedent (as defined in Probate Code section 13006) and successor to the decedent's interest in one or more of the pieces of real property and personal property described in item 11 because each petitioner is
- a. **(will)** a beneficiary who succeeded to the property under decedent's will, and a copy of the will is attached as Attachment 5 or 12a.
 - b. **(no will)** a person who succeeded to the property under Probate Code sections 6401 and 6402.
13. The interest claimed by each petitioner in each specific piece of real property and personal property is stated in Attachment 13 is as follows *(specify)*:
14. The names, relationships to decedent, ages, and residence or mailing addresses, as far as known to or reasonably ascertainable by petitioner, of (1) all persons named or checked in items 1, 9, and 10; (2) all other persons who may be entitled to inherit decedent's property in the absence of a will; and (3) all persons designated in the will to receive any property are listed in Attachment 14.
15. The names and addresses of all executors named in decedent's will are listed below. listed in Attachment 15.
- No executor is named. There is no will.
16. Petitioner is the trustee of a trust designated in decedent's will to receive property. The names and addresses of all persons interested in the trust, as determined in cases of future interests under Probate Code section 15804(a)(1), (2), or (3), are listed in Attachment 16.
17. Decedent's estate was under a guardianship conservatorship at decedent's death. The names and addresses of all persons serving as guardian or conservator are listed below are listed in Attachment 17.

18. Number of pages attached: _____

Date:

 (TYPE OR PRINT NAME OF ATTORNEY)



 (SIGNATURE OF ATTORNEY)*

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

Date:

 (TYPE OR PRINT NAME OF PETITIONER)



 (SIGNATURE OF PETITIONER)*

 (TYPE OR PRINT NAME OF PETITIONER)



 (SIGNATURE OF PETITIONER)*

SIGNATURE(S) OF ADDITIONAL PETITIONERS ATTACHED

* Each petitioner (i.e., each person named in item 1) must sign this form. (Prob. Code, § 1020.) If more than 2 petitioners, check the box above and use an attachment.

SPR22-16

Rules and Forms: Small Estate Disposition (adopt form DE-300; revise forms DE-305, DE-310, DE-315)

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

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Daniel S. Robinson, President Newport Beach	AM	<p>The OCBA agrees that this proposal appropriately addresses the stated purpose if it is modified as follows:</p> <p>(1) Attachment “A” should be attached and referenced as part of the Form DE-300 “Maximum Values” chart; it is a useful explanation for determination of values.</p> <p>(2) On Form DE-305 “Affidavit re Real Property of Small Estate” a reference should be made at paragraph 4 that the amount of \$61,500 is to be adjusted in Probate Code §890 in the same manner as referenced on Form DE-300.</p> <p>(3) On Form DE-305 add at paragraph 10 after the words - “(Attach a copy of the will)” in parentheses the phrase - “if you claim under the will and no estate proceeding is pending or has been conducted in California).”</p>	<p>The committee does not recommend the suggested change. Attachment to form DE-300 could mislead some form users to think that they were required or authorized to perform a calculation. They are not. The Judicial Council is required by statute to perform those calculations. Form DE-300 shows the results. Attachment A, which explains the basis of the council’s calculation, is attached to the report adopted by the council at its March 11, 2022, meeting. The report is available on the California Courts website as item 22-079 on the public agenda for that meeting.</p> <p>The committee does not recommend the suggested change. Probate Code section 890(c) requires that the list of the adjusted amounts include the date of the next scheduled adjustment. The Judicial Council has adopted form DE-300 as the list of the adjusted amounts. That form, which must be attached to form DE-305 when the latter is filed, gives April 1, 2025, as the date of the next scheduled adjustment. No additional reference on form DE-305 to the next adjustment is necessary or appropriate.</p> <p>The committee does not recommend the suggested change. Item 8 provides the information necessary to comply with the requirement in Probate Code section 13200(a)(7) that the affidavit or declaration state either that “[n]o proceeding for</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-16

Rules and Forms: Small Estate Disposition (adopt form DE-300; revise forms DE-305, DE-310, DE-315)

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

	Commenter	Position	Comment	Committee Response
			<p>(4) On Form DE-310 “Petition to Determine Succession” a reference to the Probate Code §890 adjustment to the value at paragraph 8.</p> <p>(5) On Form DE-315 “Order Determining Succession to Real Property” a reference to the Probate Code §890 adjustment to the value at paragraph 6.</p>	<p>administration of decedent's estate is now being or has been conducted in California” or that “[t]he decedent's personal representative has consented in writing to the use of the procedure provided by Probate Code section 13200 et seq.”</p> <p>The committee does not recommend the suggested change. Probate Code section 890(c) requires that the list of the adjusted amounts include the date of the next scheduled adjustment. The Judicial Council has adopted form DE-300 as the list of the adjusted amounts. That form, which must be attached to form DE-310 when the latter is filed, gives April 1, 2025, as the date of the next scheduled adjustment. No additional reference on form DE-310 to the next adjustment is necessary or appropriate.</p> <p>The committee does not recommend the suggested change. Probate Code section 890(c) requires that the list of the adjusted amounts include the date of the next scheduled adjustment. The Judicial Council has adopted form DE-300 as the list of the adjusted amounts. That form gives April 1, 2025, as the date of the next scheduled adjustment. No additional reference on form DE-315 to the next adjustment is necessary or appropriate.</p>
2.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p><i>Does the proposal appropriately address the stated purpose? Yes</i></p> <p><i>Would the proposal provide cost savings? If so, please quantify. No</i></p>	<p>The committee appreciates these comments. No further response is required.</p> <p>No further response is required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-16

Rules and Forms: Small Estate Disposition (adopt form DE-300; revise forms DE-305, DE-310, DE-315)

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

	Commenter	Position	Comment	Committee Response
			<p><i>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?</i></p> <p>Minimal staff training. Clerical, Examiners, and Judges to be informed of new dollar amounts and be made aware of the new and revised forms.</p> <p><i>Q: How well would this proposal work in courts of different sizes?</i></p> <p>It appears this proposal would work similarly among courts of all sizes.</p> <p><i>Other Comments:</i></p> <p>It is not entirely clear that the new form, DE-300, must be attached to certain affidavits/petitions unless specifically looking at DE-300. It would be helpful to either add this form as a Page-3 to DE-305 and DE-310 or add a checkbox or bullet point that prompts the filer to include the new attachment. See suggestions below.</p> <p>DE-305 – <i>Affidavit RE: Real Property of Small Value</i></p> <p>4. b. [] The decedent died on or after April 1, 2022. Judicial Council form, DE-300, Maximum Values for Small Estates Set-Aside & Disposition of Estate Without Administration is attached.</p>	<p>No further response is required.</p> <p>No further response is required.</p> <p>The committee agrees with this suggestion and has added the following language to item 4b on form DE-305 and item 8b on form DE-310: <i>“(decedent died on or after April 1, 2022, and form DE-300 is attached as required by law).”</i></p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-16

Rules and Forms: Small Estate Disposition (adopt form DE-300; revise forms DE-305, DE-310, DE-315)

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

	Commenter	Position	Comment	Committee Response
			<p>DE-310 – <i>Petition to Determine Succession to Real Property</i></p> <p>8. b. [] The decedent died on or after April 1, 2022. Judicial Council form, DE-300, Maximum Values for Small Estates Set-Aside & Disposition of Estate Without Administration is attached.</p> <p>It is also unclear how this requirement would be enforced on non-court supervised proceedings, such as an affidavit under probate code section 13100 or 13601.</p>	<p>The committee acknowledges that the statutory scheme leaves a putative successor’s compliance with the attachment requirement in a collection or transfer under section 13101 or 13601 to the vigilance of the holder of the property claimed or the employer. In this respect, enforcement of that requirement is no different from enforcement of any of the other content requirements in those sections. Because the statutes do not call on the court to enforce these requirements, developing forms for that purpose is beyond the scope of the Judicial Council’s purview.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:

Recommend JC approval (has circulated for comment)

Title of proposal: Rules and Forms: Probate Guardianship and Juvenile Dependency Information and Referral

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

Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee and Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, Corby.Sturges@jud.ca.gov

Sarah Namnama Saria, 916-643-7078, Sarah.Saria@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): Family and Juvenile: November 2, 2021;

Probate and Mental Health: November 2, 2021; amended February 15, 2022

Project description from annual agenda: Family and Juvenile: 1. As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently. j. AB 260 (Stone) Guardianships (Ch. 578, Stats. of 2021) Establishes processes to ensure abused or neglected children are not improperly diverted into probate guardianships in lieu of the foster care system. Requires when a social worker receives a referral from the probate court, the social worker immediately investigate as necessary to determine whether proceedings in juvenile court should be commenced. Further requires the social worker, within three weeks of the referral, to report the findings and conclusions of the investigation, along with any decision made as a result and the reasons for the decision to the probate court. Allows the probate court or the minor's appointed counsel to apply to the juvenile court, as provided, for an order directing the agency to commence juvenile dependency proceedings if the child welfare agency has not, within three weeks of referral, notified the probate court that it has commenced juvenile dependency proceedings. Requires, on or before January 1, 2023, the Judicial Council to adopt, amend, or revise rules or forms necessary for the implementation of the provisions of this bill.

Probate and Mental Health: 1. Develop new, amended, or revised rules of court and Judicial Council forms to implement legislation enacted or cases decided in 2020 or 2021 that affect guardianship, conservatorship, trust, estate, and civil mental health proceedings. PMHAC staff, in consultation with Governmental Affairs, has identified 2 bills that will require implementation via new or amended rules or forms: Assembly Bill 260 (Stats. 2021, ch. 578) amends Government Code section 68511.1 to require the Judicial Council to develop a form explaining the nature of a guardianship; the rights and duties of a guardian; and the services and supports available to a probate guardian, a foster parent, and a guardian appointed by the juvenile court. This requires the council to revise forms GC-205 and JC-350-INFO. In addition, AB 260 amends Probate Code section 1513(b) and Welfare and Institutions Code sections 329 and 331 to specify a detailed process for determining whether a dependency petition should be filed in juvenile court on behalf of a child who is the subject of a guardianship proceeding. The committee will work with the Family and Juvenile Law Advisory Committee to consider revising and cross-numbering forms JV-210 and JV-212 to clarify that they can be used by the probate court or, alternatively, developing new joint juvenile/probate forms for the probate court to use to refer a matter to the child welfare agency and to refer the agency's decision not to file a petition to the juvenile court for review.

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

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

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

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

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Government Code section 68511.1
- includes forms that staff will request be translated.

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No. 22-167

For business meeting on September 20, 2022

Title

Rules and Forms: Probate Guardianship and Juvenile Dependency Information and Referral

Rules, Forms, Standards, or Statutes Affected

Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO

Recommended by

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulsey, Cochair
Hon. Amy M. Pellman, Cochair
Probate and Mental Health Advisory Committee
Hon. Jayne Chong-Soon Lee, Chair

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Date of Report

August 15, 2022

Contact

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Executive Summary

The Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee recommend adopting one form, approving two forms, and revising three forms to implement statutory amendments affecting the relationship between probate guardianships and juvenile dependency proceedings. The new mandatory information form fulfills the statutory requirement to develop a form explaining the nature of a guardianship, the rights and duties of a guardian, and the services and supports available to a probate guardian compared with those available to a caregiver in the child welfare system and a guardian appointed by the juvenile court. One new optional form and two revised forms complete a thorough, up-to-date, and consistent set of information forms on probate guardianship and juvenile dependency cases. In

addition, revisions to one form implement the amended process for probate court referral of a child who is the subject of a guardianship petition to the local child welfare agency for investigation of abuse or neglect and commencement of juvenile court proceedings. Approval of a new form gives the probate court an option for exercising its statutory authority to request juvenile court review of an agency's decision not to commence juvenile court proceedings in response to the court's referral.

Recommendation

The Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee recommend that the Judicial Council, effective January 1, 2023:

1. Adopt *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO) to explain the nature of a guardianship, the rights and duties of a guardian, and the services and supports available to a probate guardian compared with those available to a caregiver in the child welfare system and a guardian appointed by the juvenile court;
2. Approve *Information on Probate Guardianship of the Estate* (form GC-206-INFO) to provide separate and up-to-date information on probate guardianships of the estate;
3. Approve *Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings* (form JV-213) for probate court use to request juvenile court review of a child welfare agency's decision not to commence juvenile court proceedings in response to the court's referral;
4. Revise *Guardianship Pamphlet* (form GC-205), retitled and renumbered as *Information on Probate Guardianship of the Person* (form GC-205-INFO), to provide separate and up-to-date information on probate guardianships of the person;
5. Revise *Becoming a Child's Guardian in Juvenile Court* (form JV-350-INFO), retitled as *Information on Juvenile Court Guardianship*, to provide up-to-date information on juvenile court guardianships; and
6. Revise *Application to Commence Proceedings by Affidavit and Decision by Social Worker* (form JV-210), retitled as *Application to Commence Juvenile Court Proceedings and Decision of Social Worker*, to add provisions for probate court use to refer a child for child welfare agency investigation and commencement of juvenile court proceedings.

The text of the proposed forms is attached at pages 10–43.

Relevant Previous Council Action

The Judicial Council last revised form GC-205, the guardianship pamphlet, effective January 1, 2001. Form JV-210 was most recently revised effective July 1, 2010. Finally, form JV-350-INFO was substantially revised effective September 1, 2019.

Analysis/Rationale

Assembly Bill 260 was enacted to combat “hidden foster care,” a practice in which a child welfare agency, instead of filing a juvenile dependency petition, encourages the parents of a child subject to or at risk of abuse or neglect to consent to a voluntary “safety plan” of supervised out-of-home placement with a relative.¹ Once the child is placed with the relative, the agency then informs the relative that it will file a dependency petition and place the child in foster care if the relative caregiver does not petition the probate court for appointment as the child’s guardian.

Assembly Bill 260 addressed this problem on two fronts. First, it amended Government Code section 68511.1 to require the Judicial Council to develop a form explaining the nature of a guardianship, the rights and duties of a guardian, and the services and supports available to a probate guardian compared with those available to a caregiver in the child welfare system and a guardian appointed by the juvenile court. The advisory committees recommend that the council adopt *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO) to fulfill this legislative mandate.²

As private proceedings that do not require government intervention, probate guardianships can seem less intrusive and therefore preferable to juvenile dependency proceedings to families needing someone other than a parent to serve as the child’s caregiver. But probate guardianships differ from juvenile dependency proceedings in ways that are not always to the advantage of parents and children. The probate court process lacks many hallmarks of the juvenile court process, such as court-appointed counsel for parents and children, a presumption of family reunification, and authority for the court to order and oversee reunification services for the family. In addition, a probate guardianship may not afford the same level of financial support or services that is available to a child placed with a foster or resource family or a guardian appointed by the juvenile court.³ Moreover, a probate guardian may, after a time, file a petition to terminate parental rights and adopt the child.⁴ These differences are not always appreciated by a child’s parent or prospective guardian when deciding whether to request, accept, or oppose the appointment of a probate guardian.

¹ Assem. Bill 260 (Stats. 2021, ch. 578); see Assem. Com. on Judiciary, Analysis of Assem. Bill 260 (2021–2022 Reg. Sess.) as introduced, pp. 7–9. See generally Josh Gupta-Kagan, “America’s Hidden Foster Care System” (2020) 72 *Stan. L. Rev.* 841, 843–844.

² AB 260 also amended Probate Code section 1511(a) to require notice of the hearing on a petition for appointment of a probate guardian to include a copy of the form required by Government Code section 68511.1. The committee has added a note to the first page of form GC-207-INFO/JV-352-INFO advising that the form must be attached to notice of the hearing.

³ A *resource family* is a foster family approved through the resource family approval program. See Welf. & Inst. Code, §§ 16519.5–16519.7. This report discusses the use of the term below, at p. 8.

⁴ The length of time a guardian must wait before petitioning to terminate parental rights and adopt the child is not completely clear and can vary depending on the circumstances of each case. Compare Fam. Code, § 8802(a)(1)(D)(i), (ii), and (iii) with Prob. Code, § 1516.5(a)(2).

Information forms (GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, JV-350-INFO)

Form GC-207-INFO/JV-352-INFO is intended to contribute to informed decisions, to the extent those decisions are left to a family, about the caregiving arrangement that best suits the needs of the child and family by providing families with the important information required by statute. The committees designed the form to give introductory information, including general information about the nature of a guardianship, on the first page, and then present more detailed information in three separate charts. Chart 1 compares the rights and duties of foster parents/resource families with those of guardians. Chart 2 compares the services and financial supports available to foster parents/resource families, probate guardians, and juvenile court guardians. Chart 3 compares the court processes for appointing, overseeing, and terminating a probate court guardian and a juvenile court guardian. This chart also compares the processes in probate or family court for terminating parental rights after a probate guardian has been appointed with the same process after the juvenile court has appointed a guardian.

To promote consistency with the new form and update the existing information forms to reflect current law, the committees also recommend revising form JV-350-INFO on juvenile court guardianships. In addition, the committees recommend revising GC-205-INFO and approving form GC-206-INFO to separate the information about probate guardianships of the estate from information about probate guardianships of the person, because the information on guardianships of the estate is only relevant to a subset of potential guardians. The forms have also been revised to conform across forms in use of terms and advisements to parents and guardians.

Forms for probate court application to child welfare agency and juvenile court (JV-210, JV-213)

On a second front, AB 260 sought to promote the operation of the probate guardianship and juvenile court laws as a cohesive structure.⁵ Amendments to Probate Code section 1513(b) and Welfare and Institutions Code section 329 expanded and clarified the process for probate court referral of a potentially abused or neglected child to the local child welfare agency for investigation and commencement of juvenile court proceedings as well as the agency's response. The committees recommend revising form JV-210 to add a separate section for the probate court's referral and clarifying the instructions on the form consistent with the statutory requirements.

Amendments to Probate Code section 1513(b) and Welfare and Institutions Code section 331 clarified the probate court's authority, if the child welfare agency does not start a dependency case for the proposed ward, to apply to the juvenile court for review of the agency's decision and an order to commence juvenile court proceedings. The statutes also established timelines and processes for the probate court's application and the juvenile court's review and response to the probate court. The committees recommend the approval of form JV-213 for the probate court's optional use to apply for juvenile court review.

⁵ See Prob. Code, § 1513(i).

Policy implications

The new and revised forms in this proposal implement the requirements of AB 260 in probate guardianship and juvenile dependency proceedings. To the extent that this proposal has policy implications, they stem largely from the policies and purposes of the legislation as well as the broader statutory schemes for guardianship and juvenile dependency in the Probate Code and Welfare and Institutions Code, respectively. The proposal promotes the Judicial Council's policy objectives of improving the quality of justice and service to the public and promoting access to the courts by providing accurate and thorough legal information to assist parents and prospective guardians to gain access to the court through the door that will lead to the relief most appropriate for their families.

Comments

This proposal circulated for comment in the spring 2022 invitation-to-comment cycle. The committees received 16 external comments: four superior courts, four advocacy organizations, one county counsel's office, one county bar association, and six court investigators responded. Three commenters agreed with the proposal, ten agreed with the proposal if modified, one agreed in part if modified and disagreed in part, one disagreed with the proposal, and one did not state a position. A workgroup comprising members of both advisory committees met three times with staff to review the comments and develop preliminary responses for the committees' consideration.

General comments on forms

Several commenters suggested reducing the amount of information in forms GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, and JV-350-INFO. Other commenters suggested adding information to the forms or developing additional forms. The committees are sensitive to both the need to present information that in a way that will not overwhelm parents and prospective caregivers and the need to provide information sufficient for them to understand the choices available to them. The committees have worked to balance these often competing needs in revising the proposed forms.⁶ In response to comment, the committees modified all the forms to streamline and reorganize the presentation of information to make it easier to understand. In particular, the committees modified chart 1 on proposed form GC-207-INFO/JV-352-INFO to remove former column 1, which discussed nonparental caregiver arrangements that do not require a court order. These arrangements are now mentioned on page one of the form, along with a reference to form GC-205-INFO, which discusses those arrangements in more detail.

The committees considered several suggestions to add information to the forms. In response to a suggestion from a coalition of commenters led by the Alliance for Children's Rights, the committees added a discussion of publicly funded childcare options available to caregivers, including guardians, based on income to forms GC-205-INFO and GC-207-INFO/JV-352-INFO. The committees decided that this information would be important to parents and potential

⁶ The committees also received an internal comment from a staff member in the Center for Judicial Education and Research suggesting several changes to the format and design of form GC-207-INFO/JV-352-INFO. The committees have forwarded this comment to the authors of the *Judicial Council Forms Manual* for consideration.

caregivers concerned about access to the resources needed to care for and support a child. The committees did not, however, add language to the forms that could be construed as legal advice. Instead, language was added in appropriate locations, including the first page of form GC-207-INFO/JV-352-INFO, to encourage form users to consult an attorney about their specific cases.

Matters not subject to family decision

Several commenters suggested clarifying that some decisions related to juvenile court proceedings were not subject to a family's private decision. The committees revised form GC-207-INFO/JV-352-INFO to clarify that only a county social worker may file a petition to start a juvenile dependency proceeding and that the juvenile court might not grant the petition.

Rules of court to implement Probate Code section 1513(b) and Welfare and Institutions Code section 331(b)

The committees requested specific comment on whether to recommend statewide rules of court to specify internal court procedures for a probate court to apply for juvenile court review under Probate Code section 1513(b)(4) and a juvenile court to respond under Welfare and Institutions Code section 331(b). All commenters who addressed the issue suggested that the committees recommend rules of court to establish uniform statewide procedures, though most appeared to want rules not to establish procedures for probate court application for juvenile court review, but to establish a statewide process for an individual to apply to the child welfare agency, which is outside of the scope of the Judicial Council's purview.

The unanimity of the comments in favor of developing rules notwithstanding, the committees do not recommend rules at this time for three principal reasons. First, the statutes outline the content, procedures, and deadlines for applications and responses in detail. The committees concluded that rules of court specifying additional processes or mechanisms would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court.

Second, the committees' discussions disclosed unavoidable differences among courts in the manner in which the courts are able to implement the new requirements. These differences—including differences in court size, number and assignment of judicial officers, case management systems, and general operational processes—prevent the implementation of the legislative intent through uniform statewide rules.

Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Probate Code section 1513(b)(4) and Welfare and Institutions Code section 331(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional guidance is needed when the application and review are in two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.

Service and delivery of form GC-207-INFO/JV-352-INFO with notice of hearing

Several commenters stated that the cost to petitioners of photocopying and mailing form GC-207-INFO/JV-352-INFO with each notice of hearing on a petition to appoint a probate guardian, as required by Probate Code section 1511(a), could be considerable. Although the committees are not free to limit the statutory notice requirement, they have attempted to reduce the costs to petitioners by limiting the information in the form to that which is statutorily mandated and, where appropriate, substituting references to other forms or sources that provide more detail. The committees also note that a petitioner may, with the recipient's consent, deliver notice electronically to a person listed in Probate Code section 1511(c).

Caregiving arrangements that do not require a court order

Several commenters objected to the global description of caregiving arrangements that do not require a court order as “informal.” The committees agree that this characterization of the caregiving arrangements described, for example, in item 2 of form GC-205-INFO, was misleading. Although none of them requires a court order, each requires a certain level of formality. The committees have revised the forms to refer to these caregiving arrangements that do not require a court order as *nonparental caregiving arrangements*, to move the substantive discussion of them to form GC-205-INFO, and to discuss them more precisely. In particular, the committees agree with the commenters that the reference to an “informal childcare agreement” was misleading. Some commenters correctly pointed out that a parent cannot transfer the rights and duties of legal custody over their child to another adult under California law. Only a court order can effect such a transfer.

A parent who wishes to authorize another adult to exercise their parental *rights* may, however, do so by executing a power of attorney consistent with the required statutory formalities. (See generally Prob. Code, §§ 4000–4310.) The power of attorney may grant express rights to the caregiver or may grant rights by reference to an applicable statute. (See, e.g., *id.*, § 4263(a)(2).) But a power of attorney does not impose a *duty* on the caregiver to exercise the granted powers unless the caregiver agrees in writing to exercise them. (*Id.*, § 4230.) Even if the caregiver agrees, the parent retains all their parental duties, too. Because of the formalities required to execute a valid power of attorney, the risk of error in specifying the rights granted the designated caregiver, and the need of a written agreement to impose a duty on the caregiver, the committees have cautioned users that advocates discourage the use of powers of attorney to make caregiving arrangements and encourage parents who want to explore their use to consult an attorney.

In addition, one commenter suggested adding information about Indian custodianship as a caregiving arrangement that does not require a court order. In response to this comment, the committees added information about Indian custodianship to item 2 on form GC-205-INFO and included an Indian custodian as a potential “other caregiver” in item 1 on form JV-210.⁷ The committees do not, however, recommend adding an option to indicate that the child lives on tribal land to item 2 on form JV-210. That item requests information needed to establish that the

⁷ An Indian custodian may be appointed by court order, but need not be. (See 25 U.S.C. § 1903(6).)

juvenile court where the application is filed is the proper venue or forum. The residence of the child on tribal land would not serve that purpose.

Foster parents and resource families

Multiple commenters suggested providing additional information on the difference between foster parents and resource families. In response to these comments, the committees revised forms GC-207-INFO/JV-352-INFO and JV-350-INFO to explain that resource families are foster parents who have been approved by the child welfare agency through the resource family approval (RFA) process, the details of which are beyond the scope of this proposal.⁸ Because the rights and duties and services and supports are the same regardless of whether the foster parent has received resource family approval, the forms treat them the same. In addition, these forms were revised to use “foster parent/resource family” together consistently to avoid confusion.

Authority to set hearing on request for juvenile court review under Welfare and Institutions Code section 331

Multiple commenters inquired about the source of the juvenile court’s authority to set a hearing on an application to review a social worker’s decision not to start juvenile court proceedings. The relevant statutes do not require, authorize, or prohibit a hearing. Setting a hearing, including an evidentiary hearing or argument, is nevertheless within the court’s inherent authority if necessary to resolve the matter. The Court of Appeal, in *In re M.C.* (2011) 199 Cal.App.4th 784, approves this exercise of judicial discretion in this situation:

[U]nder section 331, the juvenile court adjudicates a controversy. Whoever filed the affidavit pursuant to section 329 will initiate the section 331 proceeding before the juvenile court. The juvenile court must receive and consider not only the section 329 affidavit, but also the social worker’s endorsement stating the reasons why [they] declined to proceed. *The court may also consider additional evidence in the form of investigative reports by the social worker, declarations, and, if necessary, witness testimony.* Upon receipt of this evidence, the court makes an independent assessment of whether “there was or is within the county, or residing therein, a child within the provisions of Section 300.”⁹

A chart of all comments received and the committees’ responses is attached at pages 44–135.

Alternatives considered

The committees considered different methods and formats for presenting the information in forms GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, and JV-350-INFO, as well as allocating the information differently among the forms. The recommended forms reflect the

⁸ Welfare and Institutions Code sections 16519.5–16519.7 prescribe the RFA process. Interested persons can learn more about the process at www.cdss.ca.gov/inforesources/resource-family-approval-program.

⁹ *In re M.C.* (2011) 199 Cal.App.4th 784, 813–814 & fn. 21, emphasis added, citations omitted.

committees' determination of the most effective presentation of information to self-represented persons to help them understand the differences among nonparental caregiving arrangements.

The committees did not consider taking no action. As noted above, AB 260's amendment of Government Code section 68511.1 required the Judicial Council to develop a form providing information about guardianships and comparing them to other caregiving arrangements. The committees intend form GC-207-INFO/JV-352-INFO to fulfill this statutory mandate. The revisions to the other information forms and the approval of form GC-206-INFO for guardianships of the estate were needed to ensure the forms provide accurate legal information.

The committees also did not consider not updating the forms used to apply for commencement of juvenile court proceedings or for juvenile court review on a child welfare agency's decision not to commence such proceedings. Assembly Bill 260's amendments to Probate Code section 1513(b) and Welfare and Institutions Code sections 329 and 331 required revisions. The committees did consider—as an alternative to recommending *Probate Court Request for Juvenile Court Review of Decision Not to Commence Proceedings* (form JV-213)—adding a section for the probate court's use to request juvenile court review of a decision not to start dependency proceedings to *Application to Review Decision by Social Worker Not to Commence Proceedings* (form JV-212). The committees determined, however, that these changes to form JV-212 would risk confusing private persons, most of whom are self-represented, and deterring them from using form JV-212.

Fiscal and Operational Impacts

The courts will not incur any costs from serving or delivering form GC-207-INFO/JV-352-INFO with notice of hearing. Probate Code section 1460 requires the petitioner, not the court, to serve or deliver notice of hearing on petitions filed under division 4 of the code, including guardianship petitions. However, trial court self-help centers will incur ongoing costs to print the information forms and provide them to petitioners, parents, and interested persons. These costs are expected to be minimal, as is the additional work for self-help center staff. Court costs may, to some extent, be offset by a reduction in continuances because self-represented litigants will be better informed. The use of form JV-213 may also streamline the process for the probate court to apply for juvenile court review.

Attachments and Links

1. Forms GC-205-INFO, GC-206-INFO, GC-207-INFO/JV-352-INFO, JV-210, JV-213, and JV-350-INFO, at pages 10–43
2. Chart of comments, at pages 44–135
3. Link A: Assembly Bill 260 (Stats. 2021, ch. 578),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB260&showamends=true

GC-205-INFO**Information on Probate Guardianship of the Person**

This form gives general information about *guardianship of the person* under the Probate Code. It discusses:

- Alternatives to guardianship;
- Nomination of a guardian;
- Who can be appointed as a guardian;
- How to ask the probate court to appoint a guardian;
- How to formalize the appointment;
- The rights and duties of a guardian of the person;
- Court oversight, removal, and replacement of the guardian; and
- How and when a guardianship can end.

For an overview of guardianship and a comparison of probate and juvenile court guardianships with placement ordered by the juvenile court with a foster/resource family, read *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO). For information on juvenile court guardianship, read *Information on Juvenile Court Guardianship* (form JV-350-INFO). For information on probate guardianship of the estate, read *Information on Probate Guardianship of the Estate* (form GC-206-INFO).

CAUTION: This form is not a substitute for legal advice from a licensed attorney. Parents and potential nonparent caregivers considering guardianship should consult a lawyer for answers to questions or concerns about their situation. Click this link, www.courts.ca.gov/selfhelp-findlawyer.htm, for help finding a lawyer. More information is available from the [California Courts Online Self-Help Center](#) and private publications and resources. The superior court clerk's office or [self-help center](#) also has general information, as well as information about any local procedures or rules.

Before asking a court to appoint a guardian, a parent or potential guardian may find it useful to think about these questions:

- Does the child really need a guardianship?
- What alternatives, such as those discussed in (2), on page 2, are available?
- Would any of those alternatives be better for the child?
- Do the parents know about the alternatives and agree to the guardianship?
- If the parents don't agree, is there enough evidence to show the court that the child needs a guardian?

A person who cannot answer these questions is strongly encouraged to seek legal advice or, at least, more information.

1 What Is a Guardianship?

A *guardianship of the person* is a court-ordered relationship that gives an adult, called a *guardian*, legal and physical custody of a child, with the right to make parental decisions about the child's care and control, residence, education, and medical treatment. (For a detailed discussion of a guardian's rights and duties, see (11), below.)

With a couple of exceptions (see (3), below), parents may not be appointed guardians of their own child.

Appointment of a guardian of the person completely suspends the parents' rights to have the child live with them and to make decisions for the child for as long as the guardianship lasts. The appointment of a guardian does not,

however, terminate parental rights without additional action by the guardian and the court. For more information, see (10) and (15), below.

2 Are There Nonparental Caregiver Arrangements That Do Not Require a Court Order?

Yes. Parents can make arrangements for their child to live with an adult who is not the child's parent without going to court. These arrangements can be useful if a parent knows or believes they will not be able to take care of the child for a limited time. For example, a custodial parent may be ill; need hospitalization or other residential treatment; be detained, deported, or incarcerated; or be deployed on active military duty.



2

Under California law, a parent cannot give *custody* of their child to another person without a court order. Only a court can order legal and physical custody taken from a parent and given to a nonparent. This can happen in a few different types of cases, including a family law child custody case, a probate guardianship of the person, an adoption case, and a juvenile court case.

If a parent allows an adult relative or friend to take temporary care of their child, some service providers will question the caregiver's authority to make decisions or give permission for the child's activities or treatment. For example, a school may require written proof of the caregiver's right to enroll a child in school, or a health care provider may require a formal, written document that shows parental authorization of the caregiver to consent to the child's medical or dental care. This section discusses several ways to arrange for another adult to exercise parental authority.

a. Caregiver's Authorization Affidavit

The Family Code allows an adult, other than a parent, with whom a child is living to complete and sign a *Caregiver's Authorization Affidavit (CAA)* and make certain decisions for the child. A completed CAA authorizes a *nonrelative* caregiver to enroll the child in school and consent to the child's school-related medical care. A *relative* caregiver who provides additional information on the CAA also has authority to consent to the child's medical and dental care and limited authority over a child's mental health care.

Family Code section 6550 authorizes use of the CAA. Section 6552 describes the required contents of the CAA form. You can find a sample of the form here: www.courts.ca.gov/documents/caregiver.pdf. A paper copy may be available from your superior court clerk's office or *self-help center*, or the county public law library.

A CAA does not need to be filed in court, but it must be signed by the caregiver under penalty of perjury, which means that a caregiver who lies on the form can be charged with a crime. A CAA does not affect the decision-making rights of the child's parents and does not give the caregiver custody of the child.

a. The child's parent can veto any of the caregiver's decisions, can take the child to live with them at any time, even if the caregiver does not think that is best for the child, and can end the CAA at any time.

b. Written caregiver agreement (*power of attorney*)

A parent who has full custody of a child can use a *power of attorney (POA)* to authorize another adult to take care of their child. A POA is a written document signed by one person giving another person authority to act for the first person.

CAUTION: Many child custody experts discourage parents from using a POA to authorize another adult to take care of a child. Creating a valid POA is difficult. It requires precise language, several formal steps, and can easily lead parents to grant rights different from those they intend. Any parent thinking about using a POA is strongly encouraged to consult an attorney to discuss the pros and cons.

A POA may be useful if a parent knows or believes they will be unavailable for a specific time, such as an active-duty military deployment, or wants to give a caregiver more authority than is allowed by a CAA. With a POA, a parent can give a caregiver all or some of the same *powers* as a guardian of the person (see ① and ⑪ for discussions of those powers).

If the caregiver agrees in writing, they owe the parent a strict *duty* to exercise the powers specified in the POA. *The agreement is important.* Without an agreement, a caregiver has no duty to use the powers the parent has given them in the POA to care for the child. A parent who creates a POA also keeps all powers and duties to care for their child. If a caregiver under a POA does not properly care for the child, the parent is still responsible for doing so.

In addition, the child's parent can veto any of the caregiver's decisions, can take the child to live with them at any time even if the caregiver does not think that is best for the child, and can end the arrangement at any time.



c. Voluntary Placement Agreement

In some circumstances, parents can also voluntarily give temporary care and custody of their child to a child welfare agency, probation department, or tribe without a court order. This *Voluntary Placement Agreement* (VPA) must satisfy certain legal conditions; specify the child’s legal status and the rights and obligations of the parents, the child, and the agency taking custody of the child; and be documented on *Voluntary Placement Agreement—Placement Request* (California Department of Social Services form SOC 155, available at <https://cdss.ca.gov/cdssweb/entres/forms/English/soc155.pdf>).

Under a VPA, the child is placed in foster care, which includes placement in the home of a relative or nonrelative extended family member if possible. The child may be eligible for foster care benefits, but the parents may also be required to pay for a portion of the child’s care. The agreement usually lasts for 6 months, but it may be extended for an additional 6 months for a total period not to exceed 12 months. Parents can terminate the agreement at any time but, as noted above, if they end it before the child welfare agency agrees, the agency can file a dependency petition for the child in juvenile court.

d. Indian custodianship

An Indian custodianship can provide another option that does not require court involvement if the child is an Indian child, as defined by the federal Indian Child Welfare Act (ICWA). An Indian custodian is any Indian person who has legal custody of an Indian child under tribal law or custom or under state law. Although under California law, a nonparent may gain legal custody of a child, including an Indian child, only by court order, the state recognizes legal custody of an Indian child that is valid under tribal law or custom. The child’s parent may also create an Indian custodianship without a court order by transferring temporary physical care, custody, and control of the Indian child to an Indian person.

3 Who Can Be Appointed as Guardian?

The court may appoint any adult (a person 18 years of age or older)—including a relative, a friend of the family, or another interested person—as guardian of a child’s person. The court may *not* appoint a parent unless (a) the parent is terminally ill and is appointed as co-guardian with a nonparent or (b) the child is 18–20 years old, has consented, and has requested Special Immigrant Juvenile findings.

4 Can a Parent or Other Person Pick the Person They Want to Be the Guardian?

A parent can nominate a guardian if:

- The other parent(s) also nominate, or consent in writing to the nomination of, the same guardian for that child.
- When the petition for appointment is filed, the other parent(s) are dead or lack legal capacity to consent to the nomination, or the consent of the other parent would not be required for the child’s adoption.

The parent may make the nomination in the petition for appointment, at the hearing on the petition, or in a writing signed before or after the petition is filed. The nomination may state that the parent wants the nominee, if appointed, to have the same authority over the child as a parent with legal custody would have and to be able to exercise that authority without court oversight to the same extent as a parent with legal custody would be able to.

The nomination is effective when made, except that a written nomination may provide that the nomination takes effect only when a specified event or events, including the parent’s later legal incapacity, detention, or death, has occurred.

Unless a written nomination provides otherwise, the nomination remains in effect even if the parent later dies or is determined to lack legal capacity.

5 Who Can Request Appointment of a Guardian?

A relative or other person, including the child if 12 years old or older, can file a petition asking the court to appoint a guardian. The person who files the petition does not need to be the same person as the one who wants to be appointed guardian, but usually is. This form assumes that the same person is filing the petition *and* asking to be guardian.



GC-205-INFO**Information on Probate Guardianship of the Person****6 Filing the Petition and Giving Notice of the Hearing****a. Petition**

Once a person has decided that a child needs a guardian appointed, the first step in the process of establishing guardianship is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all other required documents. Then file the forms with the clerk of the court in the county where the child lives unless it would be better *for the child* to file the petition in a different county. A list of statewide forms that need to be filed with a petition for appointment of a guardian of the person is available on *Forms You Need to Ask the Court to Appoint a Guardian of the Person* (form GC-505). Some courts have additional local forms that need to be filed along with the statewide forms.

NOTE: After a petition is filed, the court may, but is not required to, appoint an attorney to represent the child. Any interested person can ask the court to appoint an attorney for the child. If the child is an Indian child, the child's parent or Indian custodian has a right to an appointed attorney if they cannot afford to hire an attorney. The court is not otherwise authorized to appoint an attorney for a parent or for the petitioner.

The petition needs to ask the court to appoint a guardian of the person or a guardian of both the person and the estate, give the proposed guardian's name and address and the child's name and date of birth, and state that the appointment is "necessary or convenient." The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country.

The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner can ask the court to waive the fee requirement. The court clerk can provide the required fee waiver forms.

b. Notice

Before the court can hold a hearing to decide the petition, the person who filed the petition must give **notice** of the hearing to specific persons unless the court finds that the petitioner tried diligently and could not give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by *servicing* them personally or, if that is not possible, by first-class mail with an acknowledgment of receipt requested. For more information about *service* of notice, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

7 Investigation**a. Guardianship investigation**

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. A court investigator will contact the proposed guardian, the parents, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make. The report is confidential; the court will make it available only to persons served (see item 6b, above) in the proceeding and their attorneys.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county may also waive its fee because of hardship.

b. Child welfare referral and investigation

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of



- b. juvenile court proceedings. If the probate court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the probate guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

8 Hearing and Standard for Appointment

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child does not need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is "necessary or convenient." This can happen if no parent is willing, available, or suitable to have care, custody, and control of the child. A parent may not be able to care for the child because of the parent's death, incapacity, military obligations, detention, or other reasons. The petitioner must prove to the court that a guardianship is needed.

Appointing a *guardian of the person* may be necessary or convenient if the court decides that the appointment is in the child's **best interest**. If a parent objects to the appointment of a guardian of the person, the court must, before appointing a guardian, find that remaining in or returning to parental custody would be **detrimental** (harmful) to the child.

The longer a child has been living safely with the proposed guardian, the more likely a court is to find that returning to the parents is detrimental to the child or not in the child's best interest.

9 Affirmation and Letters

For appointment of a guardian to be valid, the court must sign the *Order Appointing Guardian or Extending Guardianship of the Person* (form GC-240). Once the court signs the order, the guardian needs to complete *Letters of Guardianship* (form GC-250) and take both forms GC-240 and GC-250 to the clerk's office. After affirming that the guardian will perform their duties according to law, the clerk will issue *Letters of Guardianship*, a legal document that is proof of appointment as the child's guardian. The clerk will keep the original *Letters* in the case file. The guardian should buy a certified copy from the clerk, make photocopies of the certified copy, and keep the certified copy in a safe place. Showing officials and service providers a copy of the *Letters* will help the guardian perform their duties, such as enrolling the child in school and obtaining medical care, by verifying their legal authority to act on the child's behalf.

10 Custody and Visitation Rights—Guardians and Parents

A guardian of the person has full legal and physical custody of the child and is responsible for all decisions relating to care and control of the child. The child's parents can no longer make decisions for the child during a guardianship. The rights of the parents are completely suspended—not terminated—as long as the guardianship remains in effect.

If a guardian is appointed, a parent or other person can ask the court to order the guardian to let them visit or spend time with the child. If the court does not make an order, the guardian can decide who visits the child, how often, and for how long.

After the child has been in the guardian's custody for a minimum time—varying from six months to three years depending on the applicable statute—the guardian may petition to terminate parental rights and adopt the child.



11 Guardian's Rights and Duties**a. Basic rights and duties**

A guardian of the person generally has the same rights to legal and physical custody of the child as a parent. If a parent nominates a person as guardian and that person is appointed by the court, the court will grant the guardian, to the extent provided in the nomination, the same rights and duties regarding the child that a custodial parent has unless the court finds good cause to withhold any of them.

In other circumstances, however, the court can order the guardian to get court approval before taking specific actions for which a parent would not need court approval. The order of appointment and the *Letters* will state whether the court has placed limits on the guardian's authority.

If the child has special needs, a guardian must strive to meet those needs or secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist a child who has special needs or has had difficult or traumatic life experiences.

A guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child. A guardian must also provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child's school and physician.

b. Residence

A guardian of the person has the right to decide where the child lives. The child normally lives with the guardian, but the guardian can make other arrangements if they are in the best interest of the child. The guardian should check with the court before placing the child to live with the parents.

A guardian must give proper written notice to the court and other persons of any change of address of either the child or the guardian. A guardian must get permission from the court *before* changing the child's address to a place outside California.

c. Education

A guardian of the person holds the child's educational rights and is responsible for the child's education. The guardian determines where the child will attend school and helps the child set and attain educational goals. The guardian must assist the child in obtaining services if the child has special educational needs. As the child's advocate in the school system, the guardian should attend teacher conferences and play an active role in the child's education. The guardian of a younger child may want to consider enrolling the child in Head Start or another similar program. The guardian of an older child should consider the child's future educational needs, such as college or a specialized school.

d. Health care

A guardian of the person is responsible for meeting the child's medical, dental, and mental health needs. In most cases, the guardian has the authority to consent to the child's medical treatment. However, surgery may not be performed on a child 14 years old or older except in an emergency unless either (1) both the child and the guardian give consent or (2) a court order specifically authorizes the surgery.

A guardian of the person may not place a child in a mental health treatment facility against the child's wishes. A mental health conservatorship proceeding is required for such an involuntary placement. However, the guardian should arrange counseling and other mental health services for the child if appropriate.

In certain situations, the law allows older and more mature children to consent to their own treatment, including outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug and alcohol treatment.

e. Financial support

Even when the child has a guardian, the parents are still obligated to support the child financially. The guardian may take action to obtain child support. You may contact the local child support agency in your county to collect support from a parent. The child may also be eligible for other public benefits, Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and other public or private funds. For information about some options, see (12), below.



f. Consent to changes to child's legal status

A guardian of the person has the authority to consent to (allow) many changes the child may want to make in the transition to independent adulthood. These include:

(1) United States passport application

A guardian has authority to apply for a United States passport for the child.

(2) Driver's license application

A guardian has authority to consent to a child's driver's license application. By giving consent, the guardian becomes liable for any civil damages that result if the minor causes an accident. The law requires that anyone signing the DMV application obtain insurance to cover the minor.

(3) Enlistment in the armed services

The guardian has authority to consent to a minor's enlistment in the armed services. If the minor enters into active duty with the armed services, the minor becomes emancipated under California law, and the guardianship ends.

(4) Marriage

For the child to get married, both the guardian **and the court** must give permission. If the minor enters a valid marriage, the minor becomes emancipated under California law, and the guardianship ends.

f. Liability for child's misconduct

A guardian, like a parent, is liable for the harm and damage caused by the willful misconduct of a child. There are special rules concerning harm caused by the use of a firearm. If you are concerned about your possible liability, you should consult an attorney.

g. Additional duties

The court may place other conditions on the guardianship or additional duties on the guardian. For example, the court may require the guardian to complete counseling or parenting classes, to obtain specific services for the child, or to follow a scheduled visitation plan between the child and the child's parents or relatives. The guardian must follow all court orders.

12 Financial Support and Services for Children in Probate Guardianship

- a.** Subject to certain conditions, a child living in the home of a *nonrelative* probate guardian may receive state Aid to Families with Dependent Children—Foster Care (AFDC-FC) in the same monthly amount as a child placed in the home of a foster parent or resource family. A child living with a *relative* guardian may receive CalWORKs cash payments based on income.

A youth 18 years of age or older who continues living with a former guardian may continue to receive AFDC-FC or CalWORKs while attending high school or an equivalent full-time educational or vocational training program if expected to graduate before the reach age 19 or, if they have a disability and are attending high school full time, until age 21.

- b.** California offers a variety of publicly funded childcare programs that help low-income families, including families of children living with guardians, pay for childcare. These programs include CalWORKs childcare, Alternative Payment program (AP) voucher and contract-based childcare, California State Preschool Program (CSPP), Head Start and Early Head Start, and Transitional Kindergarten. Many of these childcare programs offer special consideration for families caring for children who have been formally or informally placed outside their home.

Each county in California has at least one childcare resource and referral agency that helps families find childcare and figure out whether they qualify for public funding to help pay for it. Guardians can use this website to find their local resource and referral agency: <https://rrnetwork.org/family-services/find-child-care>. This section discusses the main childcare programs in California.

(1) CalWORKs childcare vouchers:

CalWORKs childcare has three stages:

Stage 1: An entitlement for parents or guardians receiving CalWORKs cash assistance or who received cash assistance in the past 24 months and are engaged or want to engage in a Welfare-to-Work activity. Families stay in Stage 1 until they are transferred to Stage 2.



(1) Stage 2: An entitlement for parents or guardians who received CalWORKs cash assistance in the past 24 months or a lump-sum diversion payment or services. See (2), below, for eligibility requirements.

Stage 3: Subject to enough funding, families are transferred to Stage 3 after 24 months of receiving cash assistance or if they received a lump-sum diversion payment or services. See (2), below, for eligibility requirements.

Families get continuous CalWORKs childcare for children in their care, including children in formal and informal out-of-home care, for at least 12 months until recertification. Childcare is available until the child is 13 years old or until the child is 21 years old if they have a disability. Qualifying families should *not* be put on a subsidized childcare waiting list for CalWORKs Stages 1 and 2, as these are entitlement programs. Families can choose a childcare center, family childcare home, or family, friend, or neighbor setting that best meets their needs.*

(2) AP voucher and contract-based childcare (including CalWORKs Stages 2 and 3):

Families qualify for childcare based on income, or if they receive CalWORKs cash assistance, or if they are experiencing homelessness and the parent or guardian has a “need” for child care (for example, if they are working or going to school). Families have continuous eligibility for at least 12 months until recertification, until the child is 13 years old or until the child is 21 years old if the child has a disability. Families can choose a childcare center, family childcare home, or family, friend, or neighbor setting that best meets their needs.*

* Some counties may require guardians to use licensed “family, friend, or neighbor” child care.

(3) California State Preschool Program (CSPP):

AP voucher and contract-based child care eligibility requirements apply, but there are some exceptions. CSPP is for children ages 4–5, and there are no “need-based” requirements for part-day CSPP. CSPPs are located on school campuses and in neighborhoods.

(4) Head Start and Early Head Start:

Families experiencing homelessness or receiving CalWORKs cash assistance or supplemental security income (SSI) qualify regardless of income. Other families must qualify based on income. Head Start offers full services to families with children ages 3–5; Early Head Start is for pregnant women and children under age 3.

(5) Transitional Kindergarten:

No-cost early care and education for 4-year-olds offered on school campuses. Parents and guardians with childcare subsidies may keep their 4-year-old children in non-school settings if they prefer.

c. Other community resources

Each county has agencies and service providers that can help a guardian meet the specific needs of a child who comes from a conflict-filled, troubled, or deprived environment. If the child has special needs, the guardian must strive to meet those needs or secure appropriate services. Some children have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. A child who has special needs or has had traumatic life experiences may need counseling and other services. The probate court cannot help a guardian get services. To find resources and get referrals, the guardian can check with the court [self-help center](#), the local child welfare agency, or even a support group for guardians. A relative guardian can start by visiting the **California Kinship Navigator** at www.getvirtualsupport.org/app/.

13 Court Oversight of Guardian

Guardians are subject to the regulation and control of the court in performing their duties. To the extent resources are available, the court will require the guardian to complete and submit annual status reports to the court. *Confidential Guardianship Status Report* (form GC-251) must be used for this report. The report must provide information about the child’s residence, education, physical and emotional health, other persons the child lives with, the child’s relationship with the parents, and whether the guardianship is still needed. If the guardian, the child, or another interested person wants the court to decide whether the guardian has the authority or duty to take or not take a specific action, they can file a petition. After notice and a hearing, the court will decide and make orders.



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In addition, some counties have “court visitors” who track and review guardianships. In these counties, a guardian is expected to cooperate with all requests of the court visitor. And no matter the county, the guardian must always cooperate with the court and court investigators.

14 Removal and Replacement of Guardian

After notice and a hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child’s best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and, if the court determines after a hearing that the resignation appears proper, the court must allow it.

If there is a vacancy for any reason, the court may appoint a successor guardian after notice and a hearing as in the case of the original appointment.

15 Termination of Guardianship

A guardianship of the person automatically terminates (ends) when the child reaches age 18 *or* one of the following events occurs before the child reaches age 18:

- The child is adopted;
- The child is emancipated by getting married, enlisting in the military, or court order; or
- The child dies.

If none of these events has occurred, the child, a parent, or the guardian may petition the court for termination of guardianship before the child reaches age 18. To grant the petition, the court must find that termination is in the child’s best interest.

The longer a child has been living safely with the guardian, the more difficult it will be to show that ending the guardianship is in the child’s best interest. In fact, several statutes authorize a guardian to file a petition to terminate parental rights in conjunction with a request to adopt the child.

Under the Probate Code, for example, if a child, other than an Indian child, has lived with a probate guardian for at least two years and the court has found that adoption by the guardian would be in the child’s best interest, a proceeding to terminate parental rights may be brought in the guardianship proceeding, in an adoption proceeding, or in a separate action. The rights and procedures in Family Code sections 7800–7895, including a parent’s right to notice and counsel, apply to this proceeding. (Family Code section 8802 provides different waiting periods and procedures depending on the situation.)

If the guardianship is terminated while the child is still a minor, and no other custodial arrangement is ordered, the child returns to parental custody.

If the child, before reaching age 18, has requested or consented to the extension of the guardianship to allow time to complete a federal application for Special Immigrant Juvenile status, the court may extend the guardianship past the youth’s 18th birthday, but not past the youth’s 21st birthday.

16 Legal Advice and Resources

As noted on page 1, prospective guardians and parents are strongly encouraged to **talk with an attorney**. The attorney can advise them about the legal effect of a guardianship on parental rights, a guardian’s rights and responsibilities, the limits of a guardian’s authority, the rights of the child, and the court processes for appointing, overseeing, modifying, and terminating a guardianship.

Court staff cannot give legal *advice*. The court’s [self-help center](#) can, however, give legal *information* to a person who is not represented by an attorney and help the person fill out any forms they need to file. Information and answers can also be found by contacting local community resources, researching private publications, or visiting the county public law library.

GC-206-INFO Information on Probate Guardianship of the Estate

This form is about acting as a *guardian of the estate* to manage a child's money or other property and preserving it until the child reaches 18 years of age.

The form explains:

- What is a guardian of the estate and who can be appointed as one;
- Who can nominate a guardian of the estate, and how;
- The court process for appointment of a guardian of the estate;
- The powers, duties, and liabilities of a guardian of the estate;
- The court's authority to oversee the guardian of the estate in the performance of the guardian's duties; and
- The procedures for removing and replacing a guardian or terminating a guardianship of the estate.

For information about probate *guardianship of the person*, read Judicial Council form GC-205-INFO. For information about *juvenile court guardianship*, read form JV-350-INFO. For a comparison of guardianship with *juvenile court placement* with a relative caregiver or foster (resource) family, read form GC-207-INFO/JV-352-INFO.

Before asking a court to appoint a guardian, a parent, potential guardian, or other benefactor may find it useful to think about these questions:

- Does the child really need a guardianship?
- What alternatives are available?
- Would any of the alternatives be better for the child?
- Do the parents agree to the guardianship?
- If the parents don't agree, is there enough evidence to show that the child needs a guardian?
- Do you need legal advice or assistance?

CAUTION: This form is not a substitute for legal advice. Only a licensed attorney can give advice about how the law applies to a specific situation. Click this link, www.courts.ca.gov/selfhelp-findlawyer.htm, for help finding a lawyer. For more information, visit the [California Courts Online Self-Help Center](#) or talk to your court's [self-help center](#).

1 What is a guardian of the estate?

A guardian of the estate is a person appointed by the probate court to take control of a child's money or other property, manage that property, and preserve it for the child until the child reaches the age of 18 and can take control of the property for themselves. The court takes appointment of a guardian of the estate very seriously, and the law requires the guardian to collect and make an *inventory and appraisal* of the property, keep accurate financial records, and file regular financial accountings with the court.

Consulting an attorney for legal advice in managing the estate is highly recommended.

2 Are there alternatives to guardianship?

Yes. The law allows a parent or any other person from whom the child receives property to make financial arrangements for the child's property. For example, money received by a child may be deposited in an account accessible only in specified circumstances or by court order until the child reaches 18 years of age. This and other protective

measures can be used without the appointment of a guardian of the estate. These financial arrangements can be complicated; consulting with an attorney before choosing one over another is highly encouraged.

Note: *Some financial institutions, insurance companies, and courts require the appointment of a guardian of the estate before they will release funds to a person acting on behalf of a minor child.*

3 Who can be appointed as guardian?

To become the court-appointed guardian of a child's estate, you must:

- Be an adult (18 years old or older); and
- Show the court that your appointment would be in the best interest of the child, considering both:
 - Your ability to manage and preserve the child's estate (money and property); and
 - Your concern for and interest in the welfare of the child.

GC-206-INFO Information on Probate Guardianship of the Estate

4 Can a parent or other person name a person they want to be appointed as guardian?

Yes. A parent can *nominate* a guardian of the estate if:

- The other parent(s) nominate or consent *in writing* to the nomination of the same guardian for the same child; or
- At the time the petition for appointment is filed, either the other parent(s) are dead or lack legal capacity to consent, or the consent of the other parent(s) would not be required for adoption of the child.

In addition, any person from whom, or by designation of whom, a minor child receives property may nominate a guardian of that property.

The nomination must be made in the petition for appointment of the guardian, at the hearing on the petition, or in a writing signed either before or after the petition is filed.

A nomination is valid when made, except that a written nomination may specify that it is to take effect only if one or more events, such as the incapacity, detention, or death of the person making the nomination, occur.

Unless a written nomination provides expressly otherwise, a nomination remains effective even if the person making the nomination dies or becomes legally incapacitated.

5 Who can file a petition for appointment of a guardian of the estate?

A relative or other person, or the child if 12 years of age or older, may file a petition for appointment of a guardian in probate court using *Petition for Appointment of Guardian of Minor* (form GC-210) in probate court.

THE APPOINTMENT PROCESS

6 Filing the petition

Once a person has decided that a child needs a guardian, the first step in the process is to complete *Petition for Appointment of Guardian of Minor* (form GC-210) and all other required documents. Then, file the forms with the clerk of the court in the county where the child lives unless it would be better *for the child* to file in a different county.

Some courts have additional local forms that need to be filed along with the statewide forms.

The petition needs to ask the court to appoint a guardian of the estate or a guardian of both the person and the estate; give the proposed guardian's name and address and the child's name and date of birth; and state that the appointment is necessary or convenient. The petition must also give the names and addresses of the child's parents and other persons who have specific relationships with the child. If the child is an Indian child, the petition must state that fact and give the name and address of any Indian custodian and the child's tribe. The petition must also tell the court whether there are any adoption, child custody, juvenile court, family law, or other guardianship proceedings affecting the child in progress in California or any other state or country.

The court charges a fee for filing a guardianship petition. If the child or the child's estate cannot afford to pay the fees, the petitioner may request that the court waive the fee requirement. The court clerk can provide the required fee waiver forms.

7 Notice of the hearing

Before the court can hold a hearing to decide the petition, the person who filed the petition must give *notice* of the hearing to specific persons unless the court finds that the petitioner tried diligently and couldn't give notice to a person or that notice would be against the interests of justice. The notice must include a copy of the petition and a copy of *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

Notice must be given to the child if 12 years old or older, the parents, anyone else with legal custody, and anyone nominated to be the guardian by *servicing* them personally or, if that's not possible, by first-class mail with an acknowledgment of receipt requested. For more information about *service of notice*, see *What Is "Proof of Service" in a Guardianship?* (form GC-510). Other persons may be given notice personally, by mail, or, if they consent, electronically. If the child is an Indian child, notice must be mailed to any Indian custodian and the child's tribe as required by the Indian Child Welfare Act.

GC-206-INFO Information on Probate Guardianship of the Estate**8 Investigation**

Unless it finds a good reason not to, the court will order an investigation before the hearing on the petition to appoint a guardian. The court investigator will contact the proposed guardian, the child, and any other persons who might know about the child's family and their needs. The investigator will give a report to the court and make a recommendation on what decision the court should make.

The court or county charges a fee for conducting the guardianship investigation. The court can waive its fee if it would cause a hardship to the child or the child's estate. The county can also waive its fee because of hardship.

If someone objects to the appointment of a guardian or to the petitioner's appointment as guardian at or before the hearing, the court may decide it needs to hold a trial. Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions.

If the probate court thinks the child has been, or is at risk of being, abused or neglected by a parent, the court may refer the child to the county child welfare agency for an investigation and commencement of juvenile court proceedings. If the probate court makes a referral, the guardianship proceedings are paused, but the probate court can make any order necessary to protect the child, including an order appointing a temporary guardian or issuing a temporary restraining order.

If, after three weeks, the agency has not notified the probate court that it has filed a petition to begin proceedings in juvenile court, the probate court or the child's attorney, if the probate court has appointed one, may file a request with the juvenile court to review the agency's decision not to begin juvenile court proceedings and to order the agency to file a petition to begin those proceedings.

If the juvenile court begins proceedings, the guardianship proceedings must remain paused. If the juvenile court does not begin proceedings, the probate court can hold a hearing and decide whether to appoint a guardian.

9 Hearing and standard for appointment

An interested person may appear and object or respond to the petition *in writing* at or before the hearing. In addition, an interested person may appear and object or respond *orally* at the hearing. If no one objects, the court may decide the matter on the verified petition and declarations. If a person objects, then the court will consider evidence, determine any issues, and make appropriate orders.

Based on its determination of the child's best interest, the court may grant the petition, may grant another person's petition, or may find that the child doesn't need a guardianship and deny all the petitions. The probate court may appoint a guardian for a child when the appointment is *necessary or convenient*. The petitioner must prove to the court that a guardianship is needed.

The court must appoint the person nominated as guardian of the estate unless the court determines that the nominee is not suitable. Subject to the preference for a nominee, the court will consider the best interest of the child, taking into account the proposed guardian's ability to manage and preserve the estate property and their concern for and interest in the welfare of the child. If the child is old enough to form an intelligent preference about whom should be appointed, the court must also consider that preference.

10 Oath, letters, and bond

For an appointment as guardian to be valid, the court must sign the *Order Appointing Guardian or Extending Guardianship of the Person* (form GC-240). The guardian then needs to complete *Letters of Guardianship* (form GC-250) and take both forms to the clerk's office. After the guardian affirms that they will perform their duties according to law and posts the court-ordered bond, the clerk will issue *Letters of Guardianship* as proof of appointment as guardian of the child's estate. The clerk will keep the original *Letters* in the case file. The guardian should buy a certified copy from the clerk, make copies of it for use, and keep the certified copy in a safe place. Showing the *Letters* to banks and other financial institutions will help the guardian perform duties, such as opening accounts or making investments, by verifying the legal authority to act on the child's behalf.

GC-206-INFO Information on Probate Guardianship of the Estate**MANAGING THE ESTATE—POWERS AND DUTIES****11 Prudent investments**

As guardian of the estate, you must manage the child's money and property with the care of a prudent person dealing with someone else's property. This means that you must be cautious and may not make speculative or risky investments.

12 Separation of estate money and property

As guardian of the estate, you must keep the money and property of the child's estate separate from everyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is a *guardianship* account and not your personal account.

You should use the child's Social Security number when opening estate accounts. You should never deposit estate funds in your personal account or otherwise mix them with your own funds or anyone else's funds, even for brief periods.

Securities in the estate must be held in a name that shows that they are estate property and not your personal property.

13 Interest-bearing accounts and other investments

Except for checking accounts intended for ordinary expenses, you should place estate funds in interest-bearing accounts. You may deposit estate funds in insured accounts in federally insured financial institutions, but you should not put more than \$250,000 in any single institution. You should consult with an attorney before making other kinds of investments.

14 Blocked accounts

A *blocked account* is a type of account with a financial institution in which money or securities are placed. No person may withdraw funds from a blocked account without the court's permission.

Depending on the amount and character of the child's property, the guardian may choose **or the court may require** that estate money or other assets be placed in a blocked account. As guardian of the estate, you must follow the directions of the court and the procedures required to deposit funds in this type of account. The use of a blocked account is a safeguard and may save the estate the cost of a bond.

15 Other restrictions

Other restrictions on your authority to deal with estate assets exist. Without a prior court order, you may not pay fees to yourself or your attorney. You may not make a gift of estate assets to anyone. You may not borrow money from the estate. You may not use estate funds to purchase real property without prior court order.

If you spend estate funds without court permission, the court may compel you to reimburse the estate from your own funds and remove you as guardian. You should consult with an attorney concerning the legal requirements relating to sales, leases, mortgages, and investment of estate property.

If the child whose estate you are managing has a living parent, or if that child receives assets or is entitled to support from another source, you must obtain court approval before using *guardianship* assets for the child's support, maintenance, or education. You must file a petition or request approval in the original petition and set forth exceptional circumstances that justify any use of guardianship assets for the child's support. The court ordinarily will grant such a petition for only a limited period of time, usually not more than one year, and only for specific and limited purposes.

16 Inventory and appraisal of estate property

You must locate, take possession of, and protect the child's income and property that will be part of the estate. You must change the ownership of all assets into the guardianship estate's name. For real estate, you should record a copy of your *Letters of Guardianship* with the county recorder in each county where the child owns real property.

Next, you must arrange to have a designated probate referee determine the value of the estate property unless this requirement is waived by the court. You, not the referee, must determine the value of certain "cash items." An attorney can advise you on this.

After you have gathered all the child's money and property and determined how much it is worth, you must complete and file an *Inventory and Appraisal* with the court within 90 days of appointment using forms GC-040 and GC-041. The court may order you to return 90 days after your appointment to ensure that you properly file the inventory and appraisal.

GC-206-INFO Information on Probate Guardianship of the Estate

17 Insurance

You should make sure that the property of the estate and any risks to it are protected by appropriate and sufficient insurance. You should maintain the insurance coverage throughout the entire period of the guardianship or until the insured property is sold.

18 Records and accounts

You must keep complete, accurate records of each financial transaction affecting the estate. The checkbook for the guardianship checking account is an indispensable tool for keeping records of income and expenditures. You should also keep receipts for all purchases.

Record keeping is critical because you will have to prepare periodic accountings of all money and property you have received, what you have spent, the date of each transaction, and its purpose. You will also have to describe in detail the money and property remaining after you have paid the estate's expenses.

Beginning one year after initial appointment as guardian of the estate and then at least every two years after that, you must file an accounting for the previous period with a petition asking the court to review and approve the accounting. The court may ask that you explain or justify some or all expenses charged to the estate. You should have receipts, account statements, and other related documents available for inspection in case the court requests them.

If you do not file your accounting as required, the court will order you to do so. You may be removed as guardian if you don't file an accounting. If you know you are going to need extra time to prepare and file an accounting, be sure to ask the court for an extension ahead of the deadline.

You must comply with all state and local rules when filing your accounting. The Probate Code requires that all accounts be submitted on Judicial Council forms. There is a set of forms for standard accounts; the numbers of all these forms start with GC-400. There is also a set of forms for simplified accounts; the numbers of these forms start with GC-405.

California Rules of Court, rule 7.575 explains the accounting process and the forms. You should also check local rules for any special local requirements.

An attorney can advise you and help you prepare the inventory, accountings, and petitions. If you have any questions, you should consult with an attorney.

FURTHER COURT PROCEEDINGS

19 Court oversight

The guardian is subject to the regulation and control of the court in performing their duties. In addition to reviewing periodic accountings, the court may order you to enter into specific transactions or prohibit transactions for the benefit of the child. The guardian, the child, or any interested person can ask the court for such an order. After notice and a hearing, the court will make orders in the best interest of the child.

20 Removal and replacement of guardian

After notice and a hearing on a petition filed by the child, a relative or friend of the child, or any other interested person, the probate court may remove a guardian for specific reasons or when it is in the child's best interest. The court may also suspend the powers of the guardian until it can hold a hearing on the petition for removal. A guardian may also file a petition to resign, and the court must allow the resignation if it appears proper.

If for any reason there is a vacancy, the court may appoint a *successor* guardian after notice and a hearing as in the case of the original appointment.

21 Termination of guardianship

A guardianship of the estate terminates when the child reaches age 18 or if the child dies before age 18, subject to the duty to keep and preserve the estate until it is delivered to the child's personal representative and to settle the estate's accounts. The court may also terminate the guardianship if it decides that is in the child's best interest. At termination, the guardian must distribute the estate property and file a final account and petition for discharge with the court.

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

Notice of the hearing on a petition for appointment of a probate guardian must include a copy of this form.

A California court can order care, custody, and control of a child transferred from a parent to another caregiver in a variety of cases. This form compares juvenile court and probate guardianship cases. In juvenile court, a foster parent, sometimes called a resource family, is a temporary caregiver. A guardian is a “permanent” caregiver. A probate court can also appoint a guardian, using different procedures and standards. The three charts in this form compare the rights and duties, available services and supports, and court processes in juvenile court and probate guardianship cases.

Charts in this form

- 1. The Rights and Duties of Different Types of Caregivers, at pages 2–4**
Compares foster parents/resource families with probate guardians and juvenile court guardians
- 2. The Services and Supports Available to Different Types of Caregivers, at pages 5–8**
Compares foster parents/resource families, probate guardians, and juvenile court guardians
- 3. How a Guardian Is Appointed and What Happens Afterward, at pages 9–11**
Compares probate guardians with juvenile court guardians

For more information on probate guardianship of the person, see *Information on Probate Guardianship of the Person* (form GC-205-INFO). For information on probate guardianship of the estate, see *Information on Probate Guardianship of the Estate* (form GC-206-INFO). For more information on juvenile court guardianship, see *Information on Juvenile Court Guardianship* (form JV-350-INFO).

CAUTION: This form does not replace legal advice from a lawyer. Parents, potential caregivers, and potential guardians should consult a lawyer for answers to questions or concerns about their specific situation. Click this link, www.courts.ca.gov/selfhelp-findlawyer.htm, for help finding a lawyer.

Starting a case in probate court or juvenile court

A probate guardianship case begins when a private person files a petition to appoint a guardian. A juvenile dependency case begins only if the child welfare agency files a petition. However, a private person can ask the agency to file a petition. If the agency does not, that person can ask the juvenile court to order the agency to file a petition. Even if the agency files a petition, the juvenile court can deny it if the child doesn’t meet the legal standard. If the probate court thinks a juvenile dependency case might be appropriate after a guardianship case begins but before a guardian is appointed, the court can ask the agency to file a dependency petition and, if the agency does not, can ask the juvenile court to order the agency to file a petition.

Families can also arrange for care and a place to live for a child without going to court. These arrangements are usually temporary and often involve documents such as a Caregiver’s Authorization Affidavit (see www.courts.ca.gov/documents/caregiver.pdf) or a Voluntary Placement Agreement with a child welfare agency (see www.cdss.ca.gov/cdssweb/entres/forms/english/soc155.pdf). *Information on the Probate Guardianship of the Person* (form GC-205-INFO) gives information about these arrangements.

Foster parents/resource families

If a juvenile court finds that a child cannot continue living safely at home, the court will order the child placed out of the home in the care and custody of the county child welfare agency (sometimes called *child protective services* or CPS). The agency can then place the child in the home of an approved foster parent. If a foster parent has been approved through the resource family approval (RFA) process, the foster parent is sometimes called a *resource family*, so this form uses the term “foster parent/resource family.” Approval as a foster parent/resource family is difficult and takes time. Some families will not be approved because they do not meet the strict standards.

Guardians

A guardian is an adult appointed by either the probate court or the juvenile court to take long-term care, custody, and control of a child when the child’s parents are unavailable or unable to care for the child. A relative or nonrelative can be appointed as guardian if the court finds the appointment is in the child’s best interest. In general, probate guardians have the same rights and duties as juvenile court guardians. However, probate guardians have access to different, and often fewer, financial supports, services, and resources.



1. The *Rights and Duties* of Different Types of Caregivers

Foster Parents/Resource Families	Guardians (Probate and Juvenile Court)
<i>Caregiver's Fundamental Responsibilities and General Duties</i>	
<p>A foster parent/resource family works with child welfare agency social workers to provide care, supervision, and housing for the child.</p> <p>A foster parent/resource family receives foster care funds for the child's needs, such as food and clothing, and works with the social worker to make sure the child receives available resources and services if the child has special needs.</p>	<p>A guardian, whether appointed by a probate court or juvenile court, has the same general rights and duties toward the child as a parent. In other words, a guardian has care, custody, and control of the child. However, the court that appoints the guardian can order the guardian to do or not to do certain things.</p> <p>The guardian is responsible for providing for food, clothing, shelter, education, and all the medical and dental needs of the child.</p> <p>The guardian must provide for the safety, protection, and physical and emotional growth of the child. Like a parent, a guardian should maintain close contact with the child's school and doctor.</p> <p>If the child has special needs, the guardian must strive to meet those needs and secure appropriate services. Some children may have physical or learning disabilities. Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to help these children.</p>
<i>Custody and Visitation</i>	
<p>Physical custody of the child—that is, the right to decide where the child lives—is with the child welfare agency unless the court orders a specific placement.</p> <p>Parents retain legal custody subject to limitations set by the court.</p> <p>A foster parent/resource family must make sure the child takes part in visits and phone calls with parents and others authorized by the social worker or ordered by the court.</p> <p>A foster parent/resource family cannot, on their own, ask the court to terminate parental rights and adopt the child. They can, however, tell the social worker they would like to adopt the child.</p>	<p>The guardian has legal and physical custody of the child.</p> <p>Parents can no longer make decisions for the child while there is a guardianship. The rights of the parents are completely suspended—but not terminated—as long as the guardianship remains in effect.</p> <p>If a guardian is appointed, a parent or other person can ask the court to order the guardian to let them visit or spend time with the child. (In juvenile court, the court must allow the parent to visit the child unless it would be <i>detrimental</i> to the child.) If the court does not make an order, the guardian can decide who visits the child.</p> <p>After the child has been in the guardian's custody for a minimum time, varying from six months to three years depending on the circumstances, the guardian may petition to terminate parental rights and adopt the child.</p>
<i>Residence</i>	
<p>The social worker and the court decide who the child will live with.</p>	<p>A guardian decides where the child lives. The child normally will live with the guardian, but the guardian can make other arrangements if they are in the best interest of the child.</p> <p>A guardian must give proper notice to the court and others of any address change of either the child or the guardian.</p> <p>A guardian must get court permission before changing the child's residence to a place outside California.</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

Foster Parents/Resource Families	Guardians (Probate and Juvenile Court)
<i>Health Care</i>	
<p>The social worker arranges care and treatment for the child’s medical, dental, and mental health needs, but the foster parent/resource family might be responsible for scheduling and transporting the child to these appointments.</p> <p>Parents keep their rights to make health-care decisions for the child except in an emergency or if the court orders otherwise.</p>	<p>The guardian must make sure that the child’s health-care needs are met. In most cases, the guardian has the authority to consent to the child’s medical treatment. However, if the child is 14 years of age or older, surgery may not be performed on the child unless (1) both the child and the guardian consent, (2) a court order specifically authorizes the surgery, or (3) an emergency exists.</p> <p>A guardian may not place a child in a mental health treatment facility against the child’s wishes. A separate legal process is required for such a placement. However, the guardian must obtain any counseling or other necessary mental health services needed by the child.</p> <p>The law also allows children to consent to certain types of treatment—including outpatient mental health treatment, medical care related to pregnancy or sexually transmitted diseases, and drug or alcohol treatment—without the consent of a parent or guardian.</p>
<i>Education</i>	
<p>When a child is in foster care, parents retain the rights to make educational and developmental-services decisions for the child unless the court limits these rights and assigns them to another person.</p> <p>If the court limits parental rights to make educational and developmental-services decisions, it may assign those rights to a foster parent/resource family. Otherwise, a foster parent/resource family cannot make those decisions or attend Individualized Education Program (IEP) meetings for the child unless invited by the person holding educational rights.</p> <p>A foster parent/resource family is responsible for making sure that the child attends school. If the child is receiving special education services, the foster parent/resource family works with the school district and service providers to ensure that the child receives all the services and supports in the child’s IEP. (See page 8 for information about financial support for children with special needs.)</p>	<p>A guardian is responsible for the child’s education and holds the child’s educational and developmental-services decisionmaking rights, unless the court appoints someone else to hold them. If a child needs special education and related services, the guardian must advocate for the child with the school district and make the appropriate arrangements. (See page 8 for information about financial support for children with special needs.)</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

Foster Parents/Resource Families	Guardians (Probate and Juvenile Court)
<i>Consent to Changes to the Child's Status</i>	
A foster parent/resource family cannot consent to the child's marriage, military enlistment, or driver's license application, but the juvenile court can consent.	<p>A guardian <i>and the court</i> must give permission for a minor child to get married.</p> <p>A guardian may consent to a minor child's enlistment in the armed services or application for a driver's license.</p> <p>A guardian may apply for a passport for a minor child.</p>
<i>Financial Obligations</i>	
A foster parent/resource family receives foster care funds to pay for the child's needs.	<p>The guardian is responsible for the day-to-day financial support of the child, even though the parents are still obligated to support the child. The guardian may take legal action or contact the local child support agency to obtain child support from a parent.</p> <p>The child may also be eligible for Aid to Families with Dependent Children—Foster Care (AFDC-FC), Social Security benefits, Veterans Administration benefits, Indian child welfare benefits, and support from other public or private sources. (See Chart 2.)</p>
<i>Legal Liability</i>	
Except in limited circumstances, a foster parent/resource family is immune from liability in a civil action to recover damages for injury, death, or loss to person or property caused by an act or omission of a child or nonminor dependent while the child or nonminor dependent is placed in the home of the foster parent/resource family. (See Welfare and Institutions Code section 362.06(b)(2).)	A guardian, like a parent, is liable for the harm and damage caused by the willful misconduct of a child. (See Civil Code, § 1714.1(a).) There is usually a limit on how much a guardian may be required to pay. There are special rules concerning harm caused by the use of a firearm.
If you are concerned about your liability for a child's conduct, you should contact an attorney.	
<i>Other Rights or Duties</i>	
<p>Foster parents/resource families are entitled to notice of statutory review hearings and permanency hearings. They may attend the hearings and give information about the child to the court. Caregivers who wish to submit information in writing may use <i>Caregiver Information Form</i> (form JV-290).</p> <p>Foster parents/resource families must be included in a child's Child and Family Team (CFT) and must be notified of every CFT meeting. They may be invited to participate in or support a child's services, such as counseling or other types of treatment.</p>	<p>The court may require the guardian to perform other duties, such as completing a parenting class or attend counseling sessions with the child. The guardian must follow all court orders and cooperate with court investigators.</p> <p>Court visitors and status reports: Some counties have programs in which "court visitors" track and review guardianships. If your county has such a program, you will be expected to cooperate with all the court visitor's requests. In addition, a guardian may have to fill out and file status reports.</p>

2. The Services and Financial Support Available to Different Types of Caregivers

The payment amounts discussed below are updated annually based on the cost of living. Payments are made retroactively. For example, a child placed with a caregiver in January would receive funds for the month of January in February. The payment amounts given below are in effect from July 1, 2022, to June 30, 2023. For updated amounts, see www.cdss.ca.gov/inforesources/letters-regulations/letters-and-notice/all-county-letters.

Foster Parent/Resource Family	Probate Guardian	Juvenile Court Guardian
Cash Payments per Child—Relatives		
<p>Before a relative is approved as a foster parent/resource family, Emergency Caregiver (EC) funding is available at the foster care basic rate starting from the date the child is placed with the relative. EC funding is limited to the foster care basic rate, \$1,129 per month.</p> <p>After approval, the foster parent/resource family will receive foster care payments through federal Aid for Families with Dependent Children—Foster Care (AFDC-FC). These payments are set at the foster care basic rate, \$1,129 per month.</p> <p>There are different eligibility requirements for federal and state AFDC-FC. The child welfare agency will determine eligibility. For a child in relative foster care who is not eligible for federal AFDC-FC or EC, Approved Relative Caregiver (ARC) payments are available. These payments are set at the foster care basic rate, \$1,129 per month.</p> <p>California foster youth who are placed with a relative out of state are eligible for funds at the foster care rate in the state where they are placed.</p>	<p>Child-only California Work Opportunity and Responsibility to Kids Program (CalWORKs) payments are available for a child living with a relative guardian. The income of the family is considered in calculating the amount of cash aid the family receives.</p> <p>Payments are approximately one-half of the foster care basic rate paid to nonrelatives. A relative caregiver can receive this assistance before appointment as guardian if the child lives with the relative. Payments can drop below one-half of the foster care basic rate if there are multiple children in the home.</p> <p>CalWORKs Maximum Aid Payment (MAP) levels depend on variables such as geographic region and exempt/nonexempt status and are hard to calculate. From October 1, 2022, to September 30, 2024, MAP amounts for one child in California are expected to range from \$669 to \$779 per month. A social worker who specializes in benefits would be the best person to ask about MAP levels for cash aid.</p> <p>Payments end when the child turns 18 years old, but it is possible to extend payments to age 19 if the child is completing high school.</p>	<p>Kinship Guardianship Assistance Payment (Kin-GAP) payments are available to children who have lived with an approved relative guardian for at least six months. Kin-GAP families sign a written agreement with the county. The Kin-GAP payments begin once the agreement is signed and the juvenile court terminates the dependency case.</p> <p>Payments cannot exceed the amount the child was receiving in foster care, but they can include the foster care basic rate and any special needs supplements the child was receiving. The income of the child’s parents, Kin-GAP guardian, or any other relative living in the household is not used to determine the child’s Kin-GAP eligibility.</p> <p>Kin-GAP payments generally end when a child turns 18 but can continue until age 19 if the child is completing high school or until age 21 if the Kin-GAP payments started after the child turned 16 or if the child has an ongoing disability.</p> <p>If the court keeps the juvenile case open after appointing a relative guardian, the guardian can receive Approved Relative Caregiver (ARC) or foster care payments instead of Kin-GAP.</p> <p>In very rare situations, a relative guardian may not qualify for Kin-GAP, foster care, or ARC payments, but may still qualify for California Work Opportunity and Responsibility to Kids Program (CalWORKs) payments.</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

Foster Parent/Resource Family	Probate Guardian	Juvenile Court Guardian
Cash Payments per Child—Nonrelatives		
<p>Before approval as a resource family, a nonrelative foster parent/resource family may receive Emergency Caregiver (EC) funding at the foster care basic rate, \$1,129 per month, starting from the date the child is placed with the nonrelative.</p> <p>After approval, the foster parent/resource family will receive foster care payments. Nonrelative resource families receive Aid to Families with Dependent Children—Foster Care (AFDC-FC) funds. There are federal and state AFDC-FC funding programs, and they have different eligibility requirements. The foster care basic rate is \$1,129 per month.</p>	<p>No cash payments are available until a guardian is appointed and the child begins living with the guardian.</p> <p>An eligible child living with a <i>nonrelative</i> probate guardian may receive state Aid to Families with Dependent Children—Foster Care (AFDC-FC) payments equivalent to the foster care basic rate, \$1,129 per month, after the court establishes a temporary guardianship.</p> <p>Payments usually end when the child turns 18 years old but may continue to age 19 if the child is completing high school or to age 21 if the child has a disability.</p>	<p>State Aid to Families with Dependent Children—Foster Care (AFDC-FC) is available to children who live with a nonrelative guardian. This rate may change depending on where you live, so before you move, ask if there will be a rate change. The foster care basic rate is \$1,129 per month.</p> <p>A youth who continues living with a former nonrelative guardian after reaching age 18 can continue to receive AFDC-FC payments until they turn 21 if they meet certain participation criteria related to work, school, or activities designed to remove barriers to employment.</p>
Medical Insurance		
<p>Children who qualify for the cash payments described above are also eligible for full-scope Medi-Cal services. Youth are eligible for Former Foster Youth Medi-Cal up to age 26.</p>	<p>A child who qualifies for CalWORKs (relative guardian) or AFDC-FC (nonrelative guardian) payments is eligible for Medi-Cal. After turning 18, a youth is <i>not</i> eligible for Former Foster Youth Medi-Cal but may qualify for Medi-Cal based on income.</p>	<p>Children who qualify for Kin-GAP, ARC, or CalWORKs payments also receive full-scope Medi-Cal health care services.</p>
Extended Foster Care and Other Transition Age Supports		
<p>Extended Foster Care benefits are available for youth living in foster care when they turn 18. These <i>nonminor dependents</i> can receive ongoing case management and EFC payments until they turn 21; they may also qualify for transitional housing and independent living placements.</p>	<p>A youth who turns 18 in a probate guardianship is <i>not</i> eligible for Extended Foster Care, Independent Living Program services, or Chafee Education and Training Vouchers.</p>	<p>Extended Foster Care benefits are <i>not</i> available for a youth who is under juvenile court guardianship when the youth turns 18 years old. But if the former guardian dies or no longer provides ongoing support to the youth, the youth can ask the juvenile court to open the dependency case again. If the court does, the youth may qualify for EFC payments if they complete the requirements.</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

Foster Parent/Resource Family	Probate Guardian	Juvenile Court Guardian
<i>Extended Foster Care and Other Transition Age Supports</i>		
<p>Payment amounts vary by the type of living arrangement. They range from the foster care basic rate of \$1,129 per month to \$5,720 per month for a parenting youth living in transitional housing in a high-cost county.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, if they were in foster care on or after they reached age 16. This funding can help youth learn household and money management and help them with education, housing, and employment.</p> <p>Chafee Education and Training Vouchers for postsecondary education are available for youth who were in foster care on or after age 16. Vouchers are worth up to \$5,000 per year.</p>	<p>However, a youth living with a former guardian and receiving CalWORKs (relative) or AFDC-FC (nonrelative) payments may continue receiving payments until age 19 if the youth is completing high school or another eligible education program or until age 21 if the youth has a disability.</p>	<p>Independent Living Program funding is available for current and former foster youth up to age 21, if they were in foster care on or after age 16, they entered into a Kin-GAP guardianship after age 16, or they entered into a nonrelated legal guardianship through juvenile court after age 8. This funding can help youth learn to manage their household and money and help them with education, housing, and employment.</p> <p>Chafee Education and Training Vouchers may be available. See the Foster Parent/Resource Family column for details.</p>
<i>Childcare Assistance</i>		
<p>The Emergency Child Care Bridge program provides childcare vouchers and navigation support to caregivers of children in foster care and to foster youth who have children of their own. Eligibility depends on available funding and county policy.</p>	<p>Income-based childcare assistance may be available to children in probate guardianships.</p>	<p>Emergency Child Care Bridge program benefits are not available after a guardianship is established, but income-based childcare assistance may be available.</p>
<p>California offers a variety of publicly funded childcare programs to eligible families. <i>Information on Probate Guardianship of the Person</i> (form GC-205-INFO) and <i>Information on Juvenile Court Guardianship</i> (form JV-350-INFO) give more information on these programs. Local childcare resource and referral agencies help families find childcare and determine whether they qualify for publicly funded childcare. Parents and guardians can find a local resource and referral agency here: https://rrnetwork.org/family-services/find-child-care.</p>		

GC-207-INFO/JV-352-INFO

Comparison of Guardians With Other Nonparent Caregivers

Foster Parent/Resource Family	Probate Guardian	Juvenile Court Guardian
Special Needs Supplemental Payments		
<p>Special needs supplemental payments may be available. These payments are in addition to the basic rate, and can include:</p> <p>Level of Care based on the physical, behavioral, emotional, educational, health, and permanency care provided to a child. Payments range from \$1,129 to \$1,510 per month.</p> <p>Intensive Services Foster Care for children with intensive medical, behavioral, developmental, or emotional needs. The payment is \$2,946 per month.</p> <p>Specialized Care Increments for children with special medical, behavioral, developmental, or emotional needs. The amounts of these payments are set by the county. For more information, see www.cdss.ca.gov/inforesources/foster-care/specialized-care or speak to a social worker.</p> <p>Dual Agency Rate for children in foster care who also qualify for regional center services. These rates are \$1,323 per month for a child up to 3 years old and \$2,955 per month for a child over 3.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children. This rate is \$900 per month.</p> <p>An Expectant Parent Payment is available to support a youth in foster care for the last three months of pregnancy. This payment is \$2,700.</p> <p>A Clothing Allowance is available for foster children in some counties. The payment amount varies by county.</p> <p>Education Travel Reimbursement is available to caregivers who transport a child to the child’s school of origin (the school the child was attending before being placed in the resource family home). This rate is set by the state based on two round trips per day between the foster/resource family home and the school.</p>	<p>No special needs supplemental payments are available to a child with living with a <i>relative</i> probate guardian.</p> <p>A child living with a nonrelative probate guardian and receiving state AFDC-FC payments may also, if eligible, receive a specialized care increment, a clothing allowance, or the teen parent part of a Whole Family Foster Home payment.</p> <p>See the Foster Parent/Resource Family column for details about these payments.</p>	<p>Special needs supplemental payments may be available. These include:</p> <ul style="list-style-type: none"> • Level of Care • Intensive Services Foster Care • Specialized Care Increments • Dual Agency Rate • Whole Family Foster Home and Infant Supplement • Clothing Allowance <p>See the Foster Parent/Resource Family column for details about these payments.</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers****3. How a Guardian Is Appointed and What Happens Afterward**

STAGE	Probate Guardian	Juvenile Court Guardian
<i>Petition</i>	A person who wants to be appointed guardian of a child must file a petition with the probate court. The child's parent or the child, if at least 12 years old, can also file the petition. (See <i>Information on Probate Guardianship of the Person</i> (form GC-205-INFO).)	To start a juvenile court case, a county social worker or prosecuting attorney must file a petition in juvenile court.
<i>Investigation</i>	Before the court decides to appoint a guardian, an investigation is usually required. If the proposed guardian is a relative, a court investigator conducts the investigation. If the proposed guardian is not a relative, a county social worker conducts the investigation. The investigator prepares a report, makes a recommendation whether the petition should be granted, and files the report with the court, which makes it available to all persons served in the proceeding and their attorneys. The parent and the proposed guardian are responsible for the costs of the investigation unless payment would be a hardship.	The social worker or probation officer conducts an investigation to determine, among other things, whether to detain the child temporarily out of the parent's home and whether to recommend that the court remove the child from the parent's home. A person who wants to serve as guardian of a child in juvenile court should contact the child's social worker or probation officer early in the case to ask if the child can live with them.
<i>Appointment of Counsel</i>	The probate court has the authority to appoint an attorney to represent the child. The court may also appoint an attorney for the Indian custodian or biological parent of an Indian child but does not otherwise have the authority to appoint counsel for a parent.	In a dependency case, the juvenile court must appoint counsel for the child unless it finds that the child would not benefit from the appointment. And in almost every case, the court appoints counsel for a parent who cannot afford counsel. In a juvenile justice case, the court must appoint counsel for the child if the child appears without counsel. The court may also appoint separate counsel for a parent in specific circumstances.
<i>Hearing</i>	The court holds a hearing to decide whether to appoint a guardian. A parent or other interested person may go to the hearing and object, orally or in writing, to the appointment of a guardian for the child or to the appointment of the person proposed as guardian in the petition. The court will decide whether appointing a guardian is necessary and in the child's best interest.	The court holds a hearing to decide if the petition is true and whether to order the child placed out of the parent's home. If it decides the child cannot live safely at home, the court will not appoint a guardian right away unless the parents and child agree. Instead, it will order the child placed first with a foster parent/resource family and order the social worker or probation officer to provide reunification services (see below).
<i>Reunification Services</i>	The probate court cannot order family reunification services but can order supportive services for the guardian and child, if needed.	The juvenile court can order services to help the parents and child reunify (live together safely) <i>before</i> it chooses a permanent plan (e.g., guardianship) but not afterward.

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

STAGE	Probate Guardian	Juvenile Court Guardian
<i>Decision to Appoint a Guardian</i>	If the probate court finds that appointment of a guardian is necessary and in the child's best interest, the court may appoint a guardian.	The juvenile court may appoint a guardian at different times during the case, after making the required findings. In a dependency case, if the court finds that the petition is true, it can appoint a guardian for the child at the dispositional hearing, if the parents and the child agree and the court finds that appointing the guardian is in the child's best interest. In a juvenile justice case, the court can appoint a guardian for the child at any time after the dispositional hearing if the probation officer recommends it or the child's attorney requests it. In either a dependency or juvenile justice case, if the court has ordered out-of-home placement and denied or terminated reunification services, the court can appoint a guardian as the child's permanent plan at a separate hearing. The court decides whom to appoint as guardian. The person who has been caring for the child is almost always appointed. The procedures for appointing a guardian are generally the same in dependency and juvenile justice, but there are some differences. For more information, see <i>Information on Juvenile Court Guardianship</i> (form JV-350-INFO), and check with the social worker or probation officer.
<i>Court Oversight</i>	<p>After a guardian is appointed, there are no regular court hearings, although the probate court has the authority to regulate and control the guardian's actions. The court can order the guardian to allow visitation of the child with parents or other persons.</p> <p>The court may order the guardian to submit an annual status report to the court and, depending on the county, the court may hold a hearing. (See <i>Information on Probate Guardianship of the Person</i> (form GC-205-INFO).)</p> <p>On receipt of a request, the court may order the guardian to take action. The court may also order the guardian to appear and explain actions they have taken; the court may approve or rescind those actions.</p>	<p>The juvenile court keeps jurisdiction over the guardianship. When the court appoints a guardian, it must also issue parental visitation orders unless it finds that visitation would be detrimental to the child.</p> <p>In many cases after the guardianship is granted, especially if the guardian is related to the child, the court will terminate dependency or juvenile justice jurisdiction and will not hold any more regularly scheduled court hearings. In other cases, the court will grant the guardianship, keep dependency or juvenile justice jurisdiction, and continue to hold regular review hearings. After it terminates juvenile jurisdiction, the juvenile court keeps jurisdiction over the guardianship and can give orders to the guardian.</p> <p>Any request to change a court order, including a visitation order, or to end the guardianship must be filed in the juvenile court using <i>Request to Change Court Order</i> (form JV-180).</p>

GC-207-INFO/JV-352-INFO**Comparison of Guardians With Other Nonparent Caregivers**

STAGE	Probate Guardian	Juvenile Court Guardian
<i>Role of Social Worker or Probation Officer</i>	<p>A county social worker is responsible for screening any proposed guardian and for conducting the guardianship investigation if the proposed guardian is not related to the child.</p> <p>If the probate court thinks a child who is the subject of a guardianship petition may be abused or neglected, it can ask a social worker to investigate and file a dependency petition in the juvenile court before it decides whether to appoint a guardian. If the social worker files a dependency petition, then the juvenile court will have authority over the child's custody and placement. The probate court case will be put on hold until the juvenile court case is over.</p> <p>After a probate guardian is appointed, no social worker is involved unless the child or guardian receives public financial support or services.</p>	<p>If the dependency or juvenile justice case is kept open after guardianship is granted, the social worker or probation officer will provide support to the guardian and child and prepare reports for scheduled juvenile court hearings.</p> <p>If the juvenile dependency or juvenile justice case is closed after guardianship is granted, the juvenile court will continue to oversee the guardianship. Continued involvement by the social worker or probation officer will depend on any services and financial support the child continues to receive.</p>
<i>Terminating Guardianship</i>	<p>The guardianship automatically terminates (ends) when the child turns 18 or if, before turning 18, the child dies, is emancipated by court order, gets married, joins the armed services, or is adopted.</p> <p>If the guardian, a parent, the child, an Indian custodian, or the child's tribe shows that it is in the child's best interest, the court can end the guardianship before the child turns 18. The longer the child has lived with the guardian, the harder it is to show that termination is in the child's best interest.</p> <p>If the child consents, the court can extend a guardianship up to the child's 21st birthday to let the child complete a federal application for Special Immigrant Juvenile status.</p>	<p>The guardianship automatically terminates when the child turns 18 or if, before reaching age 18, the child dies, is emancipated by court order, gets married, joins the armed services, or is adopted.</p> <p>The court can terminate the guardianship if it finds that another permanent plan, such as adoption, is in the child's best interest. A social worker or probation officer, the guardian, a parent, the child, an Indian custodian, or the child's tribe can file a request with the juvenile court to terminate the guardianship.</p>
<i>Terminating Parental Rights</i>	<p>Appointment of a probate guardian suspends parental rights, but does not terminate them. However, under the Probate Code, if a child has been living with the guardian for at least two years, the guardian can file a petition to terminate parental rights so that the guardian can adopt the child. Parents are entitled to appointed counsel if this happens. In some situations, specified in the Family Code, the guardian can ask to adopt the child after as few as six months have passed or may need to wait up to three years.</p> <p>If the child is an Indian child, the Indian Child Welfare Act requires different procedures.</p>	<p>Appointment of a juvenile court guardian suspends parental rights, but does not terminate them. A social worker or probation officer, the guardian, or the child can file a request with the juvenile court to terminate parental rights and change the permanent plan to adoption. The court will hold a hearing to decide whether to grant the request. Each parent is entitled to notice of the hearing, to participate, and to have an attorney appointed for them.</p> <p>If the child is an Indian child, the Indian Child Welfare Act requires different procedures.</p>

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
APPLICATION TO COMMENCE JUVENILE COURT PROCEEDINGS AND DECISION OF SOCIAL WORKER (Welf. & Inst. Code, § 329)	CASE NUMBER:

Instructions: All applicants, complete part I. Individuals, complete part II, not part III. Probate court, skip part II and complete part III.

To the social worker or the child welfare agency of the county named above:

PART I. CHILD'S INFORMATION

1. a. Child's name:
 b. Age:
 c. Date of birth:
 d. Sex:
 e. (1) Parent's name: Mother Father Other parent
 (2) Parent's address:
 f. (1) Parent's name: Mother Father Other parent
 (2) Parent's address:
 g. Other caregiver, including Indian custodian (name, address, and relationship to child):

2. The child described in item 1
 - a. resides in this county.
 - b. was in this county at the time of the events alleged below.

PART II. APPLICANT'S AFFIDAVIT

3. My name and address:

4. My relationship to the child named in item 1 (specify):
5. The child named in item 1 is being abused or neglected, or is at risk of abuse or neglect, as described in Welfare and Institutions Code section 300. I am applying for an investigation and commencement of proceedings in juvenile court.
6. Facts in support of application (describe what happened concisely, and include all known and relevant dates, times, names, and addresses; use additional pages as needed, and label them as Attachment 6):

Continued on Attachment 6. Number of pages attached: _____

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

Date: _____

_____ _____

(TYPE OR PRINT NAME) (SIGNATURE)

CHILD'S NAME:	CASE NUMBER:
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PART III. PROBATE COURT REFERRAL

7. The Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, has determined that the child named above is or may be described by Welfare and Institutions Code section 300. The court refers the child to the county child welfare agency for an investigation to determine whether proceedings in juvenile court should be commenced.

8. The child is or may be described by Welfare and Institutions Code section 300 for the following reasons:

Continued on Attachment 8. Number of pages attached: _____

9. The following documents are attached to this form:

- a. A copy of the *Petition for Appointment of Guardian of Minor* (form GC-210) or *Petition for Appointment of Guardian of the Person* (form GC-210(P)) and all attachments filed in the probate guardianship proceeding identified above.
- b. A copy of the investigator's report filed in the guardianship proceeding.
- c. Other documents containing material information (*name or brief description of each document or material*):
 - (1) (*Name or description*):
 - (2) (*Name or description*):

Date: _____

JUDICIAL OFFICER

DECISION OF SOCIAL WORKER OR CHILD WELFARE AGENCY

10. Social worker information:

- a. Name:
- b. Agency:
- c. Address:
- d. Telephone number:
- e. Email address:

11. After conducting the investigation required in response to the affidavit on page 1 or the referral above, I have decided:

- a. to commence dependency proceedings by filing a petition in juvenile court.
- b. not to commence dependency proceedings in juvenile court because (*specify reasons, as well as any recommendation made to the applicant*):

Continued on Attachment 11b. Number of pages attached: _____

12. The report of the findings and conclusions of my investigation is appended as Attachment 12.

I declare under penalty of perjury under the laws of the State of California that I am a social worker of the county in which this application was submitted, I am authorized to determine whether to commence proceedings in the juvenile court, and the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)


 (SIGNATURE OF SOCIAL WORKER)

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
PROBATE COURT REQUEST FOR JUVENILE COURT REVIEW OF DECISION NOT TO COMMENCE PROCEEDINGS	GUARDIANSHIP CASE NUMBER:

PROBATE COURT

1. On (date): _____, the Superior Court of _____ County, Department _____, sitting as a probate court and assigned to determine a petition for appointment of a guardian of the child named above in case number _____, referred the child named above to the county child welfare agency for an investigation to determine whether to commence juvenile court proceedings.
2. As of the date below, no less than 3 weeks and no more than 1 month after the date of referral, (check all that apply):
 - a. The court has not received the agency's report or its decision whether to commence juvenile court proceedings.
 - b. The court has received the agency's report, but the agency has declined to commence juvenile court proceedings.
 - c. The agency has not submitted a report, but has notified the court that it will not commence juvenile court proceedings.
3. This court requests that the juvenile court review the child welfare agency's failure, as of the date below, to commence proceedings in juvenile court and order the agency to file a petition on behalf of the child.
4. The following documents or materials are attached to this request:
 - a. The probate court's referral to the child welfare agency.
 - b. The agency's report submitted in response to the probate court's referral (if available).
 - c. Other (names and descriptions of additional supporting documents or materials): _____

Total number of pages in documents attached under 4a, b, and c: _____

Date: _____

 JUDICIAL OFFICER

JUVENILE COURT

The court has reviewed and considered the probate court's request and all materials submitted with it.

THE COURT FINDS AND ORDERS

1. a. The child is not, prima facie, described by Welfare and Institutions Code section 300, and the decision of the social worker not to commence proceedings is affirmed.
- b. The child is, prima facie, described by Welfare and Institutions Code section 300, and the social worker is ordered to commence proceedings by filing a petition under Welfare and Institutions Code section 332 in this court on or before (date): _____.
2. The matter is set for hearing on (date): _____, at (time): _____, in Department (number): _____.
 The findings and orders in item 1 are deferred to the conclusion of the hearing.
3. After item 1 is completed, the clerk is directed to return this form to the probate court for filing in the guardianship case file.

Date: _____

 JUDICIAL OFFICER Page 1 of 1

JV-350-INFO Information on Juvenile Court Guardianship

This form is about legal guardianship ordered by the juvenile court as the permanent plan for a child under the court's jurisdiction who cannot return home safely or be adopted.

The form explains:

- What is a guardianship and who can be appointed guardian;
- How and when to ask to be appointed guardian in juvenile court;
- Differences between a foster parent or resource family (a foster parent approved through a specific process), a court-appointed guardian, and an adoptive parent; and
- A guardian's legal rights, duties, and eligibility for financial help.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

For information about probate guardianship of the person and the estate, read Judicial Council forms GC-205-INFO and GC-206-INFO. For a comparison of probate and juvenile court guardianship with juvenile court placement with a relative caregiver or foster parent/resource family, read form GC-207-INFO/JV-352-INFO.

1 What is a guardianship?

A guardianship—technically a *guardianship of the person*—is a court-ordered relationship in which a person, other than the child's parent, is given legal and physical custody of a child and can make the decisions that a parent can about the child's care and control, residence, education, and medical treatment. When a guardianship is established, the parents' rights to have the child live with them and to make decisions for the child are completely suspended and given to the guardian for as long as the guardianship lasts.

2 Who can be appointed guardian by the juvenile court?

A child's juvenile court guardian must:

- Be an adult (18 years old or older);
- Not be the child's parent; and
- Be approved by the county child welfare agency or juvenile probation department.

3 Can a relative be appointed guardian?

Yes. The court can appoint any approved adult, including any relative except the child's parent.

4 Is a foster parent/resource family the same as a guardian?

No. A foster parent/resource family is *not* a guardian, but the court will often appoint one, especially a relative, as guardian if the child cannot return home. Foster parents/resource families have some legal rights, including:

- The right to notice of the child's review or permanency hearings and go to the hearings; and
- The right to give the court information about the child's needs. *Caregiver Information Form* (form JV-290) may be used for this purpose.

5 How is a guardian different from a foster parent/resource family?

Foster parents/resource families and guardians are both responsible for taking care of other people's children. But there are important differences.

- **Permanence.** Placement with a foster parent/resource family, including a relative, is intended to be temporary; it can end at any time. A guardianship is a permanent plan, intended to give a child a stable, lasting home and a caring relationship.
- **Court supervision.** The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster/resource family placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open, though a guardian who receives services and financial support may continue to have contact with a social worker.
- **Duties.** A foster parent/resource family provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties toward the child but may receive fewer services and less financial and personal support.

6 Who else can be involved in the court case?

The child's relatives. A relative, even if not the child's foster parent/resource family, has a right to give the court information about the child in writing. *Relative Information* (form JV-285) may be used for this purpose. Relatives can also ask the court to allow them to go to the child's hearings.

JV-350-INFO Information on Juvenile Court Guardianship**7 Will the child be returned to the parent?**

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live **safely** at home.

Sometimes the court decides the child will not be able to return home safely. If that happens, the court will deny or stop services for the parent. The social worker or probation officer will recommend a permanent plan for the child in a written report to the court.

8 Is guardianship a permanent plan?

Yes. A guardianship is one of three authorized permanent plans. It is intended to last until the child turns 18 years of age. If the child cannot return home, adoption is the **legally** preferred permanent plan because it is more stable and secure. (Later, this form talks more about adoption.) But if adoption is not a legally available option, the court will try to appoint a guardian for the child.

HOW CAN I BECOME THE CHILD'S GUARDIAN?**9 How do I ask to become the guardian?**

If you want the court to appoint you the child's guardian, you should:

- Tell the social worker or probation officer right away; and
- Ask the judge at a hearing as soon as you can.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not “undo” or end a guardianship unless:

- The situation has changed since appointment; and
- It is in the child's best interest to end it.

10 What are the steps to becoming a guardian?

There are several steps to becoming a child's guardian in juvenile court:

- The social worker or probation officer will interview you and visit your home to make sure you, your home, and everyone living there are safe for the child.
- Your home must be approved.**
- The social worker or probation officer will write a report to the court recommending a permanent plan for the child.

Note: If you are not recommended as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.

- There will be a court hearing to decide the child's permanent plan. You will get a notice that tells you when and where the hearing will happen.
- Go to the hearing and talk to the judge. The child's parents and other people interested in the case can also go to the hearing and tell the judge what they think about you being the child's guardian.

11 How will the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency's report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You **are the best person to be the child's** guardian.

12 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk. **After you affirm that you will perform the duties of a guardian under the law, the clerk will issue Letters of Guardianship (form JV-330) as proof that you are the child's legal guardian. Buy a certified copy of the form from the clerk, make copies of it, and keep the certified copy in a safe place.**

Take a copy of the **Letters** with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.



JV-350-INFO Information on Juvenile Court Guardianship**13 Will the court oversee me as guardian?**

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court may oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders.

Note: Even after the juvenile case is closed, anyone, including you, can use *Request to Change Court Order* (form JV-180) to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to the child. If you're not related to the child, a social worker will visit you every six months and update a voluntary case plan. If you don't follow the case plan, the worker might ask the court to order you to do so.

14 When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies before then;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering active military duty, or getting a court order.

The court can order a guardianship to end before the child turns 18, but only if the proposed alternative is in the child's best interests; that is, it would be *better for the child* than continuing the guardianship.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for Kin-GAP or state AFDC-FC and meets the program requirements. See page 5 for more information about financial support generally.

15 Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or

- The child, if 14 years old or older.

The judge will replace you only if the judge decides after a hearing that the situation has changed and a new guardian is in the child's best interests.

16 How is guardianship different from adoption?

Both a guardian and an adoptive parent have legal and physical custody of the child in place of the birth parents. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court and the adoptive parents agree that they can have contact after the adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. (A court can order a guardianship to end if that is in the child's best interest.) An adoption is intended to last forever. A court can end an adoption only by terminating parental rights in a new juvenile or family law case.

Court oversight. The court keeps jurisdiction over a guardianship and can direct the guardian, replace the guardian, or end the guardianship if someone asks and the order is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can inherit property from a parent if the parent dies without a will. If the court knows the child might inherit property, it may appoint a "guardian of the estate" to manage the property. An adopted child usually has no right to inherit from a birth parent but may receive a gift from a birth parent's will or trust.

JV-350-INFO Information on Juvenile Court Guardianship**WHAT ARE A GUARDIAN'S RIGHTS AND DUTIES?**

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means:

17 Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

18 Arrange for the child's health care

You can **consent to (allow)** most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must first get permission from the court.

The law also allows children, **usually older ones**, to get some **kinds of** medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

19 Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school, and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

20 Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

21 Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

22 Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters active duty, the guardianship will end.

23 Give consent for the child's driver's license

The child cannot get a driver's license without your written permission. (See also the duties described below.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

24 Pay for harm caused by the child's driving

You must get **insurance** to cover the child when driving. You will have to pay for damage the child causes when driving that's not covered by insurance, but the law limits how much money you can be forced to pay. If you're concerned about this duty, you should talk to a lawyer.

25 Pay for harm caused by the child's other acts

Willful misconduct. In most cases, a guardian can be made to pay only for harm to another person caused by the child's *willful* misconduct. There is usually a limit **to** how much you **can be required** to pay.

Negligent conduct. **In some cases**, you can be made to pay for harm caused by the child's *negligent* conduct. If you're concerned about this duty, you should talk to a lawyer.

26 Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

27 Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.

JV-350-INFO Information on Juvenile Court Guardianship

WHAT FINANCIAL SUPPORT CAN I RECEIVE?

You may be able to get financial help from the county, state, or federal government. The type of help depends on the child's eligibility and their relationship to you.

Important! Before you become the child's guardian, ask the child's social worker or probation officer or a lawyer if you will qualify for financial help. For a detailed comparison of services and supports available to foster parents, relative caregivers, and guardians, read *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

If the child is related to you

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **Kin-GAP payments:** If the child has lived with you for at least six months, you have been approved as a resource family, you sign a written agreement, and the court closes the dependency case, you can qualify for Kin-GAP payments. Kin-GAP gives you the same monthly payments as a foster parent caring for a foster child, including any rate the county might pay to care for the child's special needs.
You can receive Kin-GAP in any county or state, but the amount may change based on where you live. In California, the payments are the same amount as foster care payments.
- **Approved Relative Caregiver (ARC) or foster care program:** If the court keeps the juvenile case open after appointing you guardian, you can receive ARC or foster care payments instead of Kin-GAP.
- **CalWORKs (cash assistance):** In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments. In those cases, you may still qualify for CalWORKs payments. If you have a low income, you may get a full CalWORKs grant. If your income is too high to qualify for a full grant, you may still receive a "child-only" CalWORKs grant.
- **Health care:** A child who qualifies for Kin-GAP, ARC, foster care, or CalWORKs payments gets health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults. The services available depend on the child's age when Kin-GAP payments started.

- **Chafee Education and Training Vouchers** for postsecondary education are available for youth who were in foster care on or after age 16. Vouchers are worth up to \$5,000 per year.

If the child is NOT related to you

In California, guardians who are not related to the child are eligible for foster care payments from the state. You can receive these payments in any county or state, but the amount may change if you live in another state. Before you move, ask if the rate will change! If you receive payments, a case worker will visit you every six months.

- **Health care:** Children who qualify for foster care payments get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults.
- **Chafee Education and Training Vouchers** for postsecondary education are available for youth who were in foster care on or after age 16. Vouchers are worth up to \$5,000 per year.

If you keep supporting the child after age 18

Even though the guardianship ends when the child turns 18, payments can continue if the youth still lives with you, you continue to care for and support the youth, the youth meets all other eligibility requirements, and you both sign written agreements.

Generally, Kin-GAP payments end when a child turns 18, *unless* the payments started after the child turned 16 (they continue until age 21) *or* the child has a mental or physical disability (funding continues until 21) *or* the child is in high school (funding continues until 19 or graduation).

Important! Talk to the child's social worker or probation officer or a lawyer a few months *before* the child turns 18 to make sure the child doesn't miss any payments.

JV-350-INFO Information on Juvenile Court Guardianship

CAN I RECEIVE CHILDCARE ASSISTANCE?

California offers a variety of publicly funded childcare programs that help families with low income, including guardians, pay for emergency and long-term, continuous childcare. Programs include: CalWORKs childcare; Alternative Payment Program (AP) voucher and contract-based childcare; California State Preschool Program (CSPP); Head Start and Early Head Start; and Transitional Kindergarten. Many of these childcare programs offer special consideration for families caring for children who have been formally or informally placed outside their home.

Every county in California has at least one childcare resource & referral agency that helps families find childcare and determine whether they qualify for public funding to help them pay for it. Parents and guardians can use this website to find their local resource and referral agency for childcare assistance: <https://rrnetwork.org/family-services/find-child-care>.

The main childcare programs in California are:

- **CalWORKs Childcare:** CalWORKs childcare has three stages:
 - Stage 1:* An entitlement for parents or guardians receiving CalWORKs cash assistance or who received cash assistance in the past 24 months and are engaged or want to engage in a Welfare-to-Work activity. Families stay in Stage 1 until they are transferred to Stage 2.
 - Stage 2:* An entitlement for parents or guardians who received CalWORKs cash-assistance in the past 24 months or a lump-sum diversion payment or services. See AP voucher & contract-based childcare, below, for eligibility requirements.
 - Stage 3:* Subject to enough funding, families are transferred to Stage 3 after 24 months of receiving cash assistance or if they received a lump-sum diversion payment or services. See AP voucher & contract-based childcare, below, for eligibility requirements

Families get continuous CalWORKs childcare for children in their care, including children in formal and informal out-of-home care, for at least 12 months until recertification. Childcare is available until the child is 13 years old or, if the child has a disability, until the child is 21. Qualifying families should not be put on a waiting list for CalWORKs Stages 1 & 2, as these are entitlement programs. Families can usually choose the childcare setting that best meets their needs.*

- **AP voucher and contract-based childcare (including CalWORKs Stages 2 & 3):** Families with children in guardianship qualify for childcare based on income, or if they receive CalWORKs cash assistance, or if they are experiencing homelessness and the guardian has a “need” for childcare, such as working or attending school. Families have continuous eligibility for at least 12 months until recertification, until the child is 13 years old or until the child is 21 years old if the child has a disability. Families can usually choose the childcare setting that best meets their needs.*
- **California State Preschool Program (CSPP):** AP voucher and contract-based childcare eligibility requirements apply, with some exceptions. CSPP is for children ages 4–5; there are no “need” requirements for part-day CSPP. CSPPs are located on school campuses and in neighborhoods.
- **Head Start and Early Head Start:** Families experiencing homelessness or families receiving CalWORKs cash payments or Supplemental Security Income (SSI) qualify regardless of their income. Other families must qualify based on their income. Head Start offers comprehensive services to families with children ages 3–5 and Early Head Start is for pregnant women and children under age 3.
- **Transitional Kindergarten:** No-cost early care & education for 4-year-olds offered on school campuses. Parents and guardians with childcare subsidies may keep their 4-year-old children in non-school settings if they prefer.

Local assistance

You can get help and information about financial support and services from local agencies. For example, if the child does not qualify for Kin-GAP, AFDC-FC, or other foster care payments, you may still be able to get Social Security, Supplemental Security Income (SSI), Medi-Cal, or other financial help. Contact your local child welfare agency if you have questions.

* Some counties do not allow guardians to choose unlicensed family, friend, or neighbor childcare.

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

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
1.	Advokids by Lauren Montana, Supervising Attorney Corte Madera	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)? Yes.</p>	<p>No further response required.</p> <p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process</p>

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			See comments on specific forms below.	<p>enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.</p> <p>See responses to comments on specific forms below.</p>
2.	<p>Alliance for Children’s Rights by Sabrina Forte, Director of Policy and Impact Litigation Los Angeles</p> <p>joined by: Bay Area Legal Aid Child Care Law Center Children’s Law Center of California Children’s Legal Services of San Diego Family Violence Appellate Project Public Counsel</p>	AM	<p>Clarify that forms do not take the place of counsel, and include information about getting legal advice to support decisionmaking.</p> <p>While the forms are very thorough, they should not take the place of legal counsel. A legal advocate with specialized knowledge is in the best position to help families understand the trade-offs of different caregiving arrangements. We recommend that each information form include a breakout box about the importance of obtaining legal advice whenever possible, as well as resources for finding a no-cost or low-cost attorney.</p> <p>Additionally, the information forms could include a box where family members can</p>	<p>The committees agree and have incorporated an advisement on the first page of forms GC-205-INFO, GC-206-INFO, and GC-207-INFO/JV-352-INFO encouraging families to seek legal advice with a link to the lawyer referral page on the California courts self-help website. Form JV-350-INFO already contains a link to the website’s lawyer referral page.</p> <p>The committees do not recommend adding this information to the form. The new advisement to</p>

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

		<p>indicate that someone has reviewed the information with them, along with that person’s name and contact information. Although not required, seeing such a box on a form could prompt a caregiver, parent, or youth to find someone to review the information with them, and it could also help the court discern whether the individual has read and understood the information on that form.</p> <p>Include considerations that are directly relevant to parents and youth, in addition to caregivers.</p> <p>The proposal states that the forms mandated by Government Code section 68511.1 have been designed to educate both caregivers and parents so they can make informed decisions about the most appropriate caregiving arrangement for their family. We recommend either creating separate forms for parents and caregivers or, alternatively, modifying the forms to add information of specific importance to parents, including the availability of reunification services and what those services look like under a VPA or juvenile court case; availability of court-appointed counsel; availability of respite care (Welf. & Inst. Code 16501(b)); and the applicable procedures and standards when the parent and caregiver disagree about establishing, modifying, or terminating a guardianship. In each of these areas, there are significant differences between juvenile court and probate court. For example, in juvenile</p>	<p>seek legal advice or information is sufficient.</p> <p>The committees do not recommend separating the forms further. Government Code section 68511.1 required development of a form comparing various attributes of probate guardianships with juvenile court-ordered care and juvenile court guardianships. Form GC-207-INFO/JV-352-INFO fulfills this mandate. In response to this comment, however, the committees have revised the recommended forms to present their information from a standpoint more neutral among potential caregivers and parents.</p> <p>The committees have expanded the information about processes and standards to include, among other things, comparisons of the availability of availability of appointed counsel, reunification services, and the different processes for asking the court to establish, modify, or terminate a guardianship in Chart 3 on form GC-207-INFO/JV-352-INFO.</p>
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		<p>court, both parents and children are appointed counsel; in probate, the court occasionally appoints minor’s counsel, and the court rarely appoints parent’s counsel.</p> <p>Although not a stated objective of this proposal, we also recommend that the forms include information of specific importance to youth, including whether and how they can ask the court to order, modify, or terminate a guardianship; whether information about their probate or juvenile court case will be kept private; and how the duties of minor’s counsel differ in probate and juvenile court.</p> <p>Add opportunities for families to provide input and advocacy throughout the various processes. We recommend that the proposed forms take an approach that is empowering to families by highlighting decision points where family input, engagement, and advocacy are important, or even required. These opportunities include participating in child and family team meetings and submitting JV-285 forms to the court.</p> <p>Although the form and accompanying sections of the Probate Code and Welfare and Institutions Code provide adequate direction for courts to carry out the process created by AB 260, a Rule of Court or Information Sheet may provide additional guidance on this new process. For example, if the matter is set for</p>	<p>The committees do not recommend the suggested change, though they have clarified the suggested information where possible. Additional suggested information is beyond the scope of this proposal and the mandate of Government Code section 68511.1, but the committees may consider developing a separate form for youth in the future.</p> <p>The committees have revised form JV-350-INFO to indicate that relatives may provide information using form JV-285. The committees have determined that “highlighting decision points” would probably constitute an impermissible provision of legal advice.</p> <p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this</p>
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		<p>argument, is a representative of the probate court expected to appear in support of its request? If so, who is best suited to that representative? Will the probate court and the minor receive notice of argument on the matter? Clarifying these questions would help avoid confusion in implementation.</p>	<p>time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings,</p>
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			See comments on specific forms below.	might inform the processes. See responses to comments on specific forms below.
3.	California Tribal Families Coalition by Mica Llerandi, Senior Attorney, Legal and Program Services, Sacramento	AM	<p>The proposed forms and information sheets do not include Indian custodianships as an alternative to court-ordered placement. We recommend adding information surrounding Indian custodianships.</p> <p>We have provided screenshots of areas where discussion of Indian custodianships would prove helpful and informative.</p> <p>[Screenshots are not replicated in this comment chart. References to the forms and sections are included and bracketed.]</p> <p>See comments on specific forms below.</p>	<p>The committees agree generally with this comment and have added references to Indian custodianships to the forms, as appropriate. For more details, please see the discussion in the Report to the Judicial Council.</p> <p>See responses to comments on specific forms below.</p>
4.	Frances Cervantes, Court Investigator Superior Court of Solano County	NI	<p>A process entails more than information. Who will review the information GC-206-INFO and GC-207-INFO with the petitioners? I suspect, no one. As a result, there will be unanswered questions or worse, the information never gets read. This is the case with the Duties of Guardian (GC-248) form. Too many petitioners sign the form without having read it and certainly without understanding their responsibilities as guardians, despite the fact that the form has a signature provision to acknowledge receipt of the form. Receipt, but not review, not understanding. In my fourteen-</p>	<p>The committees recognize that the forms in this proposal do not, and cannot, provide complete information tailored to each user’s situation or interpret that information. No form can serve that function. The committees have therefore revised the forms to encourage users to seek legal advice and to increase references and links to the online directory of superior court self-help centers. The committees have also tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible to self-represented parents and potential caregivers.</p>

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		<p>plus years of experience, most petitioners sign the Duties of Guardian form, without knowing what information is contained in the five-page form. Only five pages, and yet, to enhance understanding in support of Assembly Bill 260, forms GC-206-INFO and GC-207-INFO contain twice as many pages and do not even have a signature pages to acknowledge receipt of the form. It is unfathomable to suggest that petitioners will read and/or comprehend either forms. I fear the effort will not result in better informed families or petitioners and will, therefore, not appropriately address the stated purpose, particularly for non-represented members of the public.</p> <p>In contrast, at least in juvenile court, the JV-350-INFO has a better chance of being reviewed by a court-appointed attorney for the parent(s) affected.</p> <p>As for how well the proposal would work, depends on court size and demographics. Size and demographics are sure to be factors regarding effectiveness. Smaller courts may not have adequate staffing to assist the public with understanding the information and smaller, rural populations may not have adequate educational background to read and comprehend the material or access to resources that can help them understand the material.</p> <p>As for requests for juvenile court review,</p>	<p>No further response required.</p> <p>The committees recognize that different courts will need to implement the proposal in different ways. See the next response, on statewide rules, for additional consideration of the differences among courts.</p> <p>The committees considered the public comments</p>
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			<p>statewide rules of court would be beneficial to achieve uniformity for probate requests and juvenile court responses.</p>	<p>suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal</p>
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			<p>I like the proposed change to the JV-210 and the new proposed form JV-213.</p> <p>I cannot speak to cost savings resulting from the proposed changes. In terms of training, I cannot foresee significant cost increase as most court employees must meet continuing education units anyway. The time frame for implementation may need to be adjusted depending on the court size and percentage of staff turnover.</p>	<p>operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.</p> <p>No response required.</p> <p>No response required.</p>
5.	Family Violence Appellate Project by Cory Hernandez, Staff Attorney Oakland	AM	<p>In our experience, survivors of abuse, including intimate partner violence, can be negatively impacted by the practice of “hidden foster care” where parent-survivors are pressured by county social workers to agree to a probate court guardianship to avoid a possible filing in dependency court. As such, we applaud the Committees’ work with SPR22-17, which will help fill the gap of legal information on the differences between guardianship and juvenile dependency proceedings.</p> <p>As the proposal suggests, the intention of SPR22-17 is to “educate caregivers and parents</p>	<p>No response required.</p> <p>The committees have revised the forms to present the information more neutrally and to</p>

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		<p>so they can make informed decisions about the caregiving arrangement that best suits the needs of the child and family.” Although this proposal addresses the purpose of providing more information to caregivers, we strongly urge the committees to take further action to achieve the purpose of educating parents.</p> <p>This is important because many survivors of domestic violence do not have the resources to consult with a legal attorney when faced with the ultimatum between a guardianship or dependency proceeding. Thus, what is framed as a “temporary” guardianship can appear very alluring to a survivor facing the specter of having their children detained from them in a losing their children in a dependency proceeding. But as the invitation notes, a guardianship proceeding is not without disadvantages, including the lack of court-appointed counsel and reunification services, and guardianships are designed to be long-term changes in custody of a child from a parent to a non-parent.</p> <p>Without the legal resources, including court-appointed counsel, survivors lack the knowledge to properly advocate on their behalf. Survivors do not know that they have the right</p>	<p>address the possible questions and concerns of both parents and potential caregivers. Specifically, the committees have expanded information about objecting to the appointment of a guardian and about the possibility that the guardian will petition to terminate parental rights and request to adopt the child. The committees have also clarified that the longer the child lives with a guardian, the more difficult it will be for the court to find that terminating the guardianship is in the child’s best interest.</p> <p>The committees have revised the forms, in particular chart 3 on form GC-207-INFO/JV-352-INFO, to provide more information on the different processes in juvenile and probate court, including the comparative availability of appointed counsel and reunification services.</p> <p>The committees have revised the information forms to emphasize the importance of counsel and to provide links to information about other sources of legal information, including court self-</p>
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		<p>to object to a guardianship and that, in either a guardianship or dependency matter, it is the other side’s burden to prove that a parent/child separation is truly needed. Survivors also do not know that there are solutions, like caregivers’ affidavits, that allow them to plan for temporary alternative care of their children if they are unavailable for short periods of time. Survivors also often do not know that it will be their burden to prove that a termination of the guardianship is in their child’s best interest, or that the length of time their child was out of their care will be a factor counted against them when they ask for their child’s return.</p> <p>This can lead to what was intended to be a short, temporary guardianship to become a longer-term, permanent guardianship. This lapse of time outside of the parent’s care is then used to justify keeping the child in the custody of the guardian, instead of the parent.</p> <p>As drafted, the proposed forms and revisions primarily focus on the rights and support services for caregivers. Although there is some information geared toward parents, that information can be hard to find in these extensively detailed forms and is framed in a way to overly simplify the challenges parents will face if they ever wish to reunify with their children.</p>	<p>help centers, available to persons who cannot engage a lawyer. The forms in the proposal identify many of the issues raised in the comment. The forms cannot apply the law to specific situations to help parents or others resolve those situations. No form could do that. In recognition of the inadequacy of the forms as a substitute for counsel, the committees have revised the forms to encourage form users to seek legal advice or, if they cannot do so, to seek further information from identified sources.</p> <p>The committees have added information to form GC-205-INFO and GC-207-INFO/JV-352-INFO to indicate that the longer the child lives with the guardian, the more difficult it will be to show that terminating the guardianship is in the child’s best interest.</p> <p>The committees do not recommend developing a form designed solely or primarily to address the effect of guardianship on parental rights and interests at this time. Such a form is beyond the scope of this proposal. In addition, the long-term consequences of a guardianship on parental rights are contingent on many events that may occur both before and after the appointment of a guardian. These events vary widely among cases and defy easy cataloguing on an information form. However, the committees have added</p>
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			<p>To make an informed decision on whether a guardianship or dependency proceeding would be better situated for a parent’s circumstances, more information on their rights and support services must be provided.</p> <p>See comments on specific forms below.</p>	<p>further information on the relationship between guardianship and termination of parental rights in chart 3 of GC-207-INFO/JV-352-INFO and in GC-205-INFO.</p> <p>The committees agree and have expanded the information on the forms, in particular form GC-207-INFO/JV-352-INFO, addressing parental rights and interests. As other commenters have pointed out, however, the decision whether to proceed in probate or juvenile court never belongs to the parents alone, no matter how much information they have.</p> <p>See responses to comments on specific forms below.</p>
6.	Christine Flynn, Probate Court Investigator Superior Court of Mendocino County	AM	<p>These informational forms are not user friendly. There is too much information and a lot of guardians who file petitions have limited education and some are illiterate. I do not see guardians reading all of the information.</p> <p>If they do read the forms, they may believe they have a choice about opting for a juvenile court case when they do not. I think it needs to be made clear that it is up to CPS whether to file a juvenile case or up to the juvenile court to order them to file via JV-212. Usually, CPS says the situation is stabilized and there is no reason to open a JV case. Risks or allegations of abuse and neglect are no longer an issue since the minor is no longer living with the parent and is</p>	<p>The committees have revised the forms to clarify and simplify them while retaining critical information. The forms now caution users that they are not intended as a substitute for legal advice and also include links to the online directory of court self-help centers.</p> <p>The processes established by AB 260 are intended to ensure that the ultimate decision whether to file a dependency petition on behalf of a child in a guardianship proceeding rests with the juvenile court. The committees have added information to page 1 of form GC-207-INFO/JV-352-INFO to clarify that only a child welfare agency may start a juvenile dependency case. They also added brief descriptions of applying to the agency to file a dependency petition and</p>

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			<p>being properly cared for by a relative or non-relative caregiver.</p> <p>Maybe consider simplifying or cutting some repetitive information from the informational forms.</p> <p>See comments on specific forms below.</p>	<p>applying for a juvenile court order directing the agency to file a petition.</p> <p>The committees have simplified some information and removed repetitive information from the information forms.</p> <p>See responses to comments on specific forms below.</p>
7.	Oneatha Herne, Probate Court Investigator Superior Court of Sacramento County	AM	<p>While the legislation expanded the process for probate court to use W&I 329 and 331, information about the ability of any person to refer a child who is or may be at risk of abuse or neglect as described in W&I 300 by way of W&I 329 and 331 is not widely known. This information and the availability of applicable forms should be included. Information only on the probate court gives the impression that this process is only available after the filing of a probate guardianship petition and only can be used by the probate court.</p> <p>See comments on specific forms below.</p>	<p>The committees agree that this information is important and have added a brief discussion of the ability of any person to apply to the child welfare agency to commence dependency proceedings and to ask the juvenile court to review the agency's decision not to commence such proceedings to page 1 of form GC-207-INFO/JV-352-INFO. Additional information about these processes is beyond the scope of this proposal.</p> <p>See responses to comments on specific forms below.</p>
8.	Elizabeth Ichikawa, Supervising Court Investigator Superior Court of Solano County	N	<p>I appreciate the intent of AB260 and the work of the committee to implement it. I agree more needs to be done to keep families that will be better supported by the juvenile court out of probate court. I think anything that can be done to encourage the use of forms JV-210 and JV-213 should be implemented.</p> <p>Regarding forms GC-205-INFO, GC-206-</p>	<p>No response required.</p> <p>The committees recognize that the forms in this</p>

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		<p>INFO, GC-207-INFO/JV-352-INFO, and JV-350-INFO, I think the forms are too long, too dense, and are not written for the average adult I come into contact with. Many of the parents I come into contact with have not graduated from high school, have a learning disability, are mentally ill, and/or have a drug/alcohol abuse problem. While they may not be in agreement with the guardianship, their lives are not stable, and reading through lengthy forms is not a priority for them. They are often struggling with housing, transportation, and food. Some of them are in domestic violence relationships. The likelihood that they will read and/or fully understand the information being presented in these forms is low.</p> <p>Many of the potential guardians I come into contact with are also struggling. Some of them have not graduated from high school or have learning disabilities. Often we work with grandparents who are now raising their grandchildren. They are overwhelmed by the guardianship process, suddenly being in a custody battle with their adult children, figuring out school needs, medical needs, and welfare benefits. Many of them have to figure out how to rearrange their lives to include raising children they did not expect to be raising. They often do not carefully read any of the existing guardianship paperwork, including the paperwork they sign. Almost all of the guardians I come into contact with simply sign</p>	<p>proposal are not a panacea. They do not, and cannot, provide complete information tailored to each user’s situation or interpret that information for them. No form or other source of legal information can serve that function. The committees have therefore revised the forms to encourage users to seek legal advice and to increase references and links to the online directory of superior court self-help centers. The committees have also tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible to self-represented parents and potential caregivers.</p> <p>As discussed above, the committees agree that more than information forms are needed to help struggling families. The development and recommendation of rules and forms for and about judicial administration, practice, and procedure nevertheless circumscribes the committees’ authority and, therefore, the permissible scope of this proposal.</p>
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			<p>the Duties of Guardian and Acknowledgment of Receipt (GC-248) without reading it. I am not sure why these new lengthy forms will be any different.</p> <p>I would ask the committee to think carefully about the information that MUST be communicated and how it can be done in a way that will be honest, effective, and meaningful to the communities that we are serving. I think the better way to handle this issue is by properly funding, staffing, and training Child Welfare Service Managers, Supervisors, and Social Workers so they are not turning away the families they are tasked with serving.</p> <p>See comments on specific forms below.</p>	<p>See the committee responses above. The funding, staffing, and training of child welfare agencies and professionals is also beyond the purview of the judicial branch.</p> <p>See responses to comments on specific forms below.</p>
9.	Elizabeth Torres Juaquez, Probate Investigator Superior Court of Los Angeles County	AM	Overwhelmed with the information.	The committees recognize that the forms in this proposal do not, and cannot, provide complete information tailored to each user’s situation or interpret that information for them. No form can serve that function. The committees have therefore revised the forms to encourage users to seek legal advice and to increase references and links to the online directory of superior court self-help centers. The committees have also tried to streamline both the information in the forms and the way it is presented to make it as accessible as possible to self-represented parents and potential caregivers.
10.	Los Angeles County County Counsel, Social Services	A	The new and revised guardianship forms are great. The informational forms are really	No response required.

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<p>Division DCFS Policy Institute DCFS Juvenile Court Services by O. Raquel Ramirez, Senior Deputy County Counsel</p>		<p>informative and detailed, and they are presented in plain simple language. People applying for guardianships will be better informed of the types of guardianships and alternatives available, duties and responsibilities of guardians, funding, other services and supports, the process, and whether a probate guardianship is proper as opposed to going through dependency court. As such, the forms appropriately address the stated purpose.</p> <p>It would be helpful if the forms are provided in Spanish (and other available languages).</p> <p>The Council also asked for a comment whether it should adopt specific rules for handling probate court referrals to dependency court. The Council should adopt specific rules because it would cut down on the risk of referrals getting lost or delayed.</p>	<p>The committees agree that translating the information forms would be helpful. Form GC-207-INFO/JV-352-INFO will be translated into Spanish as required by statute. Other forms may be translated as resources become available.</p> <p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the</p>
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				<p>committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. For example, the procedures needed in the Superior Court of Los Angeles County to prevent the loss or delay of referrals and responses among the probate departments and the juvenile departments would be unique to that court, the only court of its size in California. Other procedures, or no procedures at all, would be required to prevent loss or delay in other courts. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.</p>
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11.	Orange County Bar Association by Daniel Robinson, President	AM	<p>The OCBA agrees that this proposal moderately addresses the stated purposes provided the following modifications are made:</p> <p>(1) This proposal and specifically Form GC-205-Info were intended to comply with the mandatory terms for such forms as set forth in AB260 (Stats. 2021); one of those requirements is for this form to explain how a probate guardianship differs from the services available to a child welfare caregiver in the child welfare system and a guardian appointed by the juvenile court. This form does not appear to explain those differences in legal rights and services but instead just obliquely references some comparisons found in Forms JV-350-Info, GC206-Info and GC-207-Info/JV-352-Info. The stated purpose of AB 260 was to remedy some of the problems identified in various recent law review and expert publications about the abuses found by a “Hidden Foster Care” system created by various informal child welfare agency referrals. We do not see any adequate explanations of the different legal rights and remedies available in the various court and child welfare systems.</p>	<p>No response required.</p> <p>Government Code section 68511.1, as amended by AB 260 (Stats. 2021, ch. 578, § 1), required the Judicial Council to “develop a form explaining the nature of a guardianship of a minor, the rights, duties, and obligations of a person serving as guardian of a minor, and information about the services and supports available to a probate guardian and how they differ from the services and supports available to a caregiver in the child welfare system or a guardian appointed by the juvenile court.” The committees intend form GC-207-INFO/JV-352-INFO to serve as the form mandated by section 68511.1. The other forms in the proposal are intended to complement form GC-207-INFO/JV-352-INFO and provide additional information about specific types of guardianships. Chart 1 of form GC-207-INFO describes the differences between the rights and duties of a juvenile court foster parent/resource family, a probate guardian, and a juvenile court guardian. Chart 2 compares the different services and financial supports available to a juvenile court foster parent/resource family, a probate guardian, and a juvenile court guardian. Chart 3 describes the differences in procedures, rights, and standards between juvenile court and probate guardianship court.</p>
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			<p>For instance, no explanation is given as to rights to counsel for the various parties under various proceedings (appointed or approval as selected),</p> <p>no explanation given for the differences in rights to appeal (for instance there is no right to appeal if a person files a Form JV-210 – Application to Commence Juvenile Court proceedings and that application is denied by the social worker or the trial court);</p> <p>no explanation given for the rights to hearings (for instance one local rule for a Welfare and Institutions Code §329, §331 juvenile court determination says that the juvenile court judge can render a decision “with or without a hearing in the court’s discretion”);</p>	<p>The committees have revised chart 3 to add a discussion of differences in the right to appointed counsel.</p> <p>The committees do not recommend adding a discussion of the differences between the rights to appeal the agency’s determination not to commence juvenile court proceedings in response to submission of form JV-210 or another application under Welfare and Institutions Code section 329 because there is no difference in the right to appeal. Both the probate court (with the option of using form JV-213) and an individual applicant (with the option of using form JV-212) may apply to the juvenile court under section 331 for an order directing the agency to commence juvenile court proceedings. If the juvenile court denies the application, the nature of the applicant makes no difference to the appealability of the order. (See generally <i>In re M.C.</i> (2011) 199 Cal.App.4th 784, 801–802 & fn. 12.)</p> <p>The committees do not recommend adding a discussion of the right to a hearing on an application under section 331 for an order directing the agency to commence juvenile court proceedings. No such right exists. The statutes do not require or prohibit a hearing. Setting a hearing, including an evidentiary hearing or argument, is within the court’s inherent authority if needed to resolve the matter. <i>In re M.C., supra</i>, confirms this authority: “[U]nder section 331, the</p>
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			<p>and no explanations given for the differences in investigations, investigators, costs of investigations.</p> <p>Regarding the specific comment request whether the Committee should recommend state-wide rules of court to specify internal superior court procedures for the probate court to request juvenile court review under Probate Code §1513(b) and the juvenile court to respond under Welf. & Inst. Code §331(b), the OCBA recommends “yes” since both provisions were adopted as part of AB260 (Stats 2021) and</p>	<p>juvenile court adjudicates a controversy. Whoever filed the affidavit pursuant to section 329 will initiate the section 331 proceeding before the juvenile court. The juvenile court must receive and consider not only the section 329 affidavit, but also the social worker’s endorsement stating the reasons why he or she declined to proceed. <i>The court may also consider additional evidence in the form of investigative reports by the social worker, declarations, and, if necessary, witness testimony.</i> Upon receipt of this evidence, the court makes an independent assessment of whether ‘there was or is within the county, or residing therein, a child within the provisions of Section 300.’” (<i>In re M.C., supra</i>, 199 Cal.App.4th at 813–814 & fn. 21, emphasis added, citations omitted.)</p> <p>The committees have revised chart 3 on form GC-207-INFO/JV-352-INFO to add a discussion of the differences between investigations and a note on assessment and waiver of costs for probate guardianship investigations.</p> <p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and</p>
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			neither provision provides much guidance to the courts.	deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.
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			See comments on specific forms below.	See responses to comments on specific forms below.
12.	Superior Court of Los Angeles County by Brian Borys	AM	<p>Agree that providing specific rules for processing of the JV210 when used by the probate court for referral may be helpful, specifically to indicate whether parties are to be served with copy of court filing, whether copy of the filing should be available in probate case or only in juvenile court, and if available in probate case, whether confidential.</p> <p>Specify probate court action upon receipt of</p>	<p>The committees do not recommend adopting rules of court to provide uniform statewide procedures for the probate court’s application under Probate Code section 1513(b), whether using form JV-210 or a different vehicle, <i>to the child welfare agency</i> for conduct of an investigation and commencement of juvenile court proceedings. That process was not the subject of the committee’s request and is beyond the scope of this proposal. The committees nevertheless considered the comment and concluded that the suggested rules of court are not needed at this time. The content and deadlines in Probate Code section 1513(b) and Welfare and Institutions Code section 329(b) for the probate court’s referral to the agency are clear, yet leave room for differing procedures to make the process work efficiently in any particular county. At the time of a referral, only a probate guardianship case has been opened; the referral could therefore be filed only in that case. Probate Code section 1513(d) requires that any report authorized by that section be confidential. If the probate court refers the child to the agency after receiving the investigator’s report and includes that report, then the copy of the referral with the report retained in the guardianship file would be confidential. No rule is required to specify this statutory requirement.</p> <p>The committees do not recommend adopting a</p>

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			JV210 from social services agency. Note that there are limitations in e-filing systems for attaching additional forms and notices that are not submitted with the petition.	rule or revising form JV-210 in response to this comment. Probate Code section 1513(b) has for many years required the agency to report the findings of its investigation to the probate court. Each court has processed, and may continue to process, this report in a manner compatible with its e-filing and case management systems. AB 260 does not impose any additional requirements on that process. The committees concluded that the differing capacities of e-filing systems provide a reason to leave the details of how to process an agency report submitted under section 1513(b) up to each court and county. A rule imposing a uniform statewide requirement for processing the agency’s report would almost certainly be burdensome for some courts.
13.	Superior Court of Orange County by Vivian Tran, Operations Analyst	AM	<p><i>Does the proposal appropriately address the stated purpose?</i> Yes, the proposal appropriately addresses the stated purpose.</p> <p><i>Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)?</i> Statewide rules are helpful in providing guidance.</p>	<p>No response required.</p> <p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would</p>

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		<p><i>Would the proposal provide cost savings? If so, please quantify.</i></p>	<p>not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees' discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.</p> <p>No response required.</p>
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			<p>The proposal does not appear to provide cost savings.</p> <p><i>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?</i></p> <p>Provide an informational update to Case Processing staff, Courtroom staff, and judicial officers.</p> <p>Procedures will need to be revised to indicate a hearing may be scheduled in juvenile court to hear argument.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Yes, three months will be sufficient time for implementation.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>This proposal would work for Orange County.</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
14.	Superior Court of Riverside County by Susan Ryan, Chief Deputy of Legal Services	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes, the INFO forms will provide the information needed so that potential guardians understand their rights, duties and obligations. The revisions to the JV-210 will make it easier</p>	No response required.

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		<p>for the probate court to use this form for referrals to the child welfare agency or to request juvenile court review when the probate court believes that a child in a guardianship may fall under WIC 300. The new JV-213 will make is easier for the probation court to request juvenile court review of the social workers decisions.</p> <p>Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)?</p> <p>Courts should be able to provide internal processes for these referrals; however new rules of court could be beneficial.</p>	<p>The committees considered the public comments suggesting rules to establish uniform statewide procedures for probate courts to request juvenile court review and juvenile courts to respond to these requests. The unanimity of the comments in favor of such rules notwithstanding, the committees do not recommend such rules at this time for three principal reasons. First, the statutory provisions outline the procedures and deadlines in detail. The committees concluded that rules of court specifying additional processes or mechanisms for carrying out processes would not usefully add to the statutory requirements and, as noted above, would interfere with the local discretion needed to implement the statutory policies in each court. Second, the committees’ discussions disclosed unavoidable differences among courts—including differences in court size, number and assignment of judicial officers, case management systems, and general court operations—that would prevent them from implementing the legislative intent of AB 260 through uniform statewide procedures imposed by rule. Third, the committees are sensitive to the</p>
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			<p>Would the proposal provide cost savings? If so, please quantify. No</p> <p>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? Clerk’s office and courtroom staff would need to be trained on any new processes for the referral and request for review from the probate</p>	<p>requirement, in Government Code section 77001, that rules of court establish a decentralized system of trial court management. In most, though certainly not all, cases, the process enacted in Welfare and Institutions Code section 331(b) and Probate Code section 1513(b) will be conducted internally, that is, between two different departments within a single superior court. The processes at issue in those cases seem, therefore, to fall within the scope of internal operational procedures best left to local discretion. If additional procedural clarification is needed when the referral and response are between two separate superior courts, Family Code section 3410 or Probate Code section 2204, both of which apply to guardianship proceedings, might inform the processes.</p> <p>No response required.</p> <p>No response required.</p>
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			<p>court to the juvenile court. Agencies and judges would need to be notified of the updates to the various forms.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>How will would this proposal work in courts of different sizes? This should work the same for courts of any size.</p>	<p>No response required.</p> <p>No response required.</p>
15.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM N	<p>Agree, in part, with proposed changes if modified and do not agree, in part.</p> <p>Specifically, as noted below, the court has concerns regarding the service requirements of these new forms. Requiring service may prove problematic for several reasons, including the fact that they are multiple pages and there are generally numerous parties that require service in these cases. It is all too often that service-related issues cause these cases to be continued. Adding any additional hurdles (possibilities for defects) to this process is concerning, especially considering that many of these litigants are self-represented.</p> <p>Does the proposal appropriately address the stated purpose?</p>	<p>No response required.</p> <p>The committees do not recommend a change in response to this comment because service of this form is required by statute. Probate Code section 1511 requires that notice of the hearing on a petition to appoint a probate guardian include a copy of the new mandatory information form. Form GC-207-INFO/JV-352-INFO fulfills the mandate in Government Code section 68511.1 by including all the elements required by that statute. The petitioner must, therefore, serve that form with notice of hearing on the petition.</p> <p>The committees have revised the forms to clarify and simplify them without omitting critical</p>

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		<p>Yes and no. The proposed new forms and revisions are well written and informative, but they are long and verbose. Given the intended audience, it may be beneficial to simplify and shorten.</p> <p>Should the committees recommend statewide rules of court to specify internal superior court procedures for a probate court to request juvenile court review under Probate Code section 1513(b) and a juvenile court to respond under Welfare and Institutions Code section 331(b)? A unified rule across California would help to standardize procedures for applicants filing in multiple jurisdictions.</p> <p>Would the proposal provide cost savings? If so, please quantify. No.</p> <p>What would the implementation</p>	<p>information. The forms now caution users that they are not intended as a substitute for legal advice and also include links to the online directory of court self-help centers.</p> <p>The committees do not recommend a rule to specify uniform standardized procedures for applicants filing in more than one court or county. Because it would appear to provide procedures for individual applicants to the child welfare agency or the juvenile court under Welfare and Institutions Code sections 329(a) or 331(a) rather than the probate court’s request for review under section 331(b), such a rule is beyond the scope of the request for comment and this proposal. Rules for a private party’s application to the child welfare agency are beyond the purview of the Judicial Council. In addition, for the reasons stated in response to above, the committees do not recommend rules establishing uniform statewide procedures for probate court referral to a child welfare agency for investigation and commencement of juvenile court proceedings or to a juvenile court for review of the agency’s decision not to commence such proceedings.</p> <p>No response required.</p> <p>No response required.</p>
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			<p>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? Clerical, Examiners, and Judges must be made aware of form changes. Guardianship packets will need to be updated and changes to case management system would be required.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p> <p>How well would this proposal work in courts of different sizes? It appears this proposal would work similarly among courts of all sizes.</p> <p>Page footers: The right page footers seem to be incorrectly numbered.</p> <p>See comments on specific forms below.</p>	<p>No response required.</p> <p>No response required.</p> <p>The committees have revised the forms to correct the page numbering of the footers.</p> <p>See responses to comments on specific forms below.</p>
16.	Samantha Wahl, Probate Court Investigator Quest Court Investigations Sacramento	A	<p>I agree that some petitioners may struggle with the material, but I found them to be informative. Having the information streamlined into graphs was a good idea, as were the complementary forms.</p>	<p>The committees have taken these comments into account when considering revisions to the proposal.</p>

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GC-205-INFO Information on Probate Guardianship of the Person		
Commenter	Comment	Committee Response
Advokids by Lauren Montana, Supervising Attorney Corte Madera	Include a section explaining appointment of attorney for minor in guardianship: Atty not automatically appointed. The proposed ward or another party can request counsel be appointed. Appointment of an attorney for the minor is at the court’s discretion.	The committees agree that this information would be helpful and have modified the form to include it.
Alliance for Children’s Rights et al. by Sabrina Forte, Director of Policy and Impact Litigation	<p>1. Reclassify and clarify the limitations of “informal childcare arrangements.”</p> <p>We agree that families should understand the types of caregiving arrangements that are available without a court order. We recommend more clarity in describing the caregiving arrangements discussed in Question 2 (“Are there childcare arrangements that do not require a court order?”), especially caregiving arrangements that are not clearly defined under California law.</p> <p>As the Note on the first page of the GC-205-INFO describes, generally, a custodial parent cannot give their legal rights and responsibilities regarding their child to another caregiver without a court order. There are two exceptions to this general rule under California law: Caregiver Authorization Affidavits, authorized by Family Code section 6550 et seq., and Voluntary Placement Agreements, authorized by Welfare and Institutions Code section 16507.2-16507.6. There is no statutory authority for the “informal childcare agreement” described on the second page of the GC-205-INFO. In our experience, families receive a lot of misinformation about these informal written agreements (e.g., that a written agreement is not valid unless it is notarized, that signatories must specify the period of time that the agreement is in effect, that signatories must not specify the period of time that the agreement is in effect, etc.). Often, child welfare agencies encourage families to enter into these</p>	<p>The committees agree in part and have revised item 2 to clarify the scope and authority of the nonparental caregiving arrangements discussed. In particular, the committees have removed the description of these arrangements described as “informal.” Although none of these arrangements requires a court order, each requires a level of formality.</p> <p>The committees agree that the term “informal childcare agreement” was misleading. The commenter is correct that a parent cannot <i>transfer</i> the rights and, more important, the duties of legal custody to another adult under California law. Only a court order can effect such a transfer. A nonparent may, however, exercise parental authority without a court order under several different arrangements as long as the applicable legal requirements are met. Section 2 of the form is intended to explain these arrangements in sufficient detail to prompt a parent or caregiver to decide whether to seek further information or guidance regarding any of them. California law recognizes two options in addition to those mentioned by the commenter. One is an Indian custodianship, discussed in response to other comments. The other is a <i>power of attorney</i>. A parent who wishes to</p>

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	<p>agreements, leaving the family without any support or resources, only for the caregiver to learn later that the agreement does not confer any additional authority and preventing children from accessing critical services. This form does little to address these problems of misinformation and misuse, especially because the GC-207-INFO does not provide additional information about informal written agreements.</p> <p>Additionally, classifying these arrangements as informal childcare arrangements is confusing. “Childcare” or “Child care” is legally defined under California Health & Safety Code sections 1596.750 (defining licensed child care generally), 1596.76 (child care center), 1596.771 (employer-sponsored child care center), 1596.78 (family child care), 1596.792 (legally-licensed exempt care). Licensed childcare is non-medical care for less than 24 hours. The health and safety of licensed child care is regulated by the California Department of Social Services, Community Care Licensing Division. Using the terms “child care” or “childcare” to describe an informal situation where other adults can make decisions about the welfare of the child is confusing.</p> <p>For these reasons, we recommend revising the section on “informal childcare arrangements” to specify that the scope of these arrangements is not clearly defined by California law, which makes them difficult to enforce. We also recommend removing the Note, which overlaps with and is less clear than the content of Question 2. More generally, when speaking about child care in an informal situation, the form should either</p>	<p>authorize another adult to exercise their parental rights may do so by executing a power of attorney consistent with the required statutory formalities. (See generally Prob. Code, §§ 4000–4310.) The power of attorney may grant express powers to the caregiver or may grant powers by reference to an applicable statute. (See, e.g., <i>id.</i>, § 4263(a)(2).) But a parent cannot delegate parental duties, and a power of attorney does not impose a duty on the designated caregiver to exercise the granted powers unless the caregiver agrees in writing to exercise them. (<i>Id.</i>, § 4230.)</p> <p>The committees agree that using the term <i>childcare</i> may lead to confusion, especially when used to describe both these arrangements in item 2 of the form and subsidized childcare and daycare, discussed below, in item 12. The committees have therefore substituted the term <i>nonparental caregiving arrangements</i> to refer to the arrangements discussed in item 2.</p> <p>The committees agree in part, as noted above, and have revised the discussion of nonparental caregiving arrangements in item 2 on form GC-205-INFO to discuss these arrangements more precisely.</p>
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	<p>use a different term or clarify that informal child care is not referring to the type of child care defined by the Health & Safety Code. Should the subsection on “informal childcare” remain, the term “unlicensed family, friend, or neighbor care,” which falls under Health & Safety Code section 1596.792(d)&(f), may be more appropriate.</p> <p>2. Provide an overview of child care resources that probate court guardians may access.</p> <p>We recommend including information about the broad array of subsidized child care programs available to families with low income in various circumstances, including some families in probate guardianships. Families caring for children who have been formally or informally placed outside their home qualify for most of these child care programs, regardless of income. We have provided an overview of these resources below for the committees to use or excerpt.</p> <p>California offers a variety of publicly funded (subsidized) child care programs that help families, including resource families and foster youth who are parents, pay for emergency and long-term, continuous child care. Programs include: CalWORKs child care; Alternative Payment Program (AP) Voucher & Contract-based child care; California State Preschool Program (CSPP); Head Start & Early Head Start; Emergency Child Care Bridge Program for Foster Children; and Transitional Kindergarten (TK). Many of these child care programs offer special consideration for families caring for children who have been formally or informally placed outside their home.</p> <p>Every county in California has at least one child care resource & referral agency (R&R) that helps families find child care and</p>	<p>The committees agree that this information would be useful to guardians and their families and have incorporated much of it into item 12 of form GC 205-INFO and page 6 of JV-350-INFO. The committees have also added an advisement to form GC 207 INFO/JV-352-INFO indicating that a child in the care, custody, and control of a parent or guardian may be eligible for certain income-based childcare assistance programs.</p>
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	<p>determine whether they qualify for publicly-funded child care to help them pay for it. Parents and guardians can use this website to find their local R&R for child care assistance: <i>https://rrnetwork.org/family-services/find-child-care</i>.</p> <p>Below are the main child care programs in California:</p> <p>CalWORKs Child Care: CalWORKs child care has three stages:</p> <ul style="list-style-type: none">• Stage 1: Entitlement for parents or guardians receiving CalWORKs cash-assistance or who received cash assistance in the past 24 months and are engaged or want to engage in a Welfare-to-Work activity. Families stay in Stage 1 until they are transferred to Stage 2.• Stage 2: Entitlement for parents or guardians who received CalWORKs cash-assistance in the past 24 months or a lump-sum diversion payment or services. See AP Voucher & Contract-Based Child Care below for eligibility requirements.• Stage 3: Subject to enough funding, families are transferred to Stage 3 after 24 months of receiving cash assistance or if they received a lump-sum diversion payment or services. See AP Voucher & Contract-Based Child Care below for eligibility requirements. <p>Families get continuous CalWORKs child care for children in their care, including children in formal and informal out-of-home care, for at least 12 months until recertification. Child care is available until the child is 13 years old or until the child is 21 years old if they have a disability. Qualifying families should not be put on a subsidized child care waiting list for CalWORKs stages 1 & 2 as these are entitlement programs. Families can choose a child care center, family child care home, or family, friend, or neighbor setting that best meets</p>	
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	<p>their needs.*</p> <p>AP Voucher & Contract-Based Child Care (including CalWORKs Stages 2 & 3): Families with children who receive child protective services, or are at-risk of abuse, neglect, or exploitation qualify for child care and have priority on the waiting list, regardless of the family’s income. To qualify, the child does not need to be in foster care or with an approved resource family. Other families qualify for child care based on income, if they receive CalWORKs cash assistance, or if they are experiencing homelessness and if the parent or guardian has a “need” for child care, such as working or attending school. Families have continuous eligibility for at least 12 months until recertification, until the child is 13 years old or until the child is 21 years old if the child has a disability. Families can choose a child care center, family child care home, or family, friend, or neighbor setting that best meets their needs.*</p> <p>California State Preschool Program (CSPP): APP voucher & contract-based child care eligibility requirements apply, but with some exceptions. CSPP is for children ages 4-5, and there are no “need” requirements for part-day CSPP. CSPPs are located on school campuses and in neighborhoods.</p> <p>Head Start & Early Head Start: Families with children in foster care, or families experiencing homelessness, or families receiving TANF or SSI qualify regardless of their income. Families with children in foster care have priority for enrollment. Other families must qualify based on their income. Head Start offers comprehensive services to families with children ages 3-5 and Early Head Start is for pregnant women and children under age 3.</p>	
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	<p>Emergency Child Care Bridge Program for Foster Children: Child care vouchers to approved resource families and to parents under the jurisdiction of the juvenile court, including but not limited to, nonminor dependent parents. There are no income requirements, but resource parents must have a need for child care, such as working or attending school. Availability depends on funding and county policy. Child care is for up to 6 months and sometimes up to 12 months with navigation support to find and transfer families to long-term child care. Trauma-informed training is available to child care providers. Care is available to children up to age 12 and for children with disabilities up to age 21. Families can choose a child care center, family child care home, or family, friend, or neighbor settings that best meet their needs.*</p> <p>*Some counties do not allow guardians to use unlicensed family, friend, and neighbor child care for children in foster care.</p> <p>Transitional Kindergarten: No-cost early care & education for 4-year-olds offered on school campuses. Parents and guardians with child care subsidies may keep their 4-year-old children in non-school settings if they prefer.</p> <p>In addition, we provide the following minor revisions to improve clarity and accuracy: Page 7; Section: What is a Guardianship? <i>Comment:</i> Including a reference to “letters of guardianship” in this section of the form would provide clarity. <i>Proposed Change:</i> Include a sentence explaining what letters of guardianship are.</p>	<p>The committees do not recommend the suggested change. Section 9 of the form provides a thorough discussion of the nature and role of letters of guardianship. Including it here would be premature and would unnecessarily increase the length of the form.</p>
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	<p>Page 8; Section: Caregiver’s Authorization Affidavit <i>Comment:</i> In the Note, the relationship between CAAs and RFA is unclear. It seems to suggest that a caregiver could be asked to get RFA to use a CAA, even though RFA is a process is only required for caregivers of foster youth. <i>Proposed Change:</i> Delete the last sentence beginning with “In some circumstances . . .” or replace this sentence with, “In some circumstances, a caregiver may decide to formalize the arrangement in order to exercise the necessary decisionmaking authority.”</p> <p>Page 9; Section: Who Can Be Appointed as a Guardian of the Person? <i>Comment:</i> A parent may be appointed as a guardian in a limited circumstance: in connection with SIJS for those ages 18-20. <i>Proposed Change:</i> Add: “The court may appoint a parent as a guardian for an unmarried individual who is 18 years of age or older, but who has not yet attained 21 years of age, in connection with a petition for Special Immigrant Juvenile Status.</p> <p>Page 10; Section: Hearing and Standard for Appointment <i>Comment:</i> A finding of detriment is more than a finding that living with a parent would be “not good” for a child. <i>Proposed Change:</i> Replace “or not good for” with “or harmful to”.</p> <p>Page 11; Section: Education <i>Comment:</i> Reorder information for clarity. <i>Proposed Change:</i> Reword as follows: “A guardian of the person holds the child’s educational rights and is responsible for the child’s education. The guardian determines where the child will attend school and helps the child set and attain</p>	<p>The committees have revised the information about the CAA to indicate instead that, in some cases, the caregiver may need to formalize the arrangement to gain acceptance of their decision-making authority.</p> <p>The committees agree with the suggestion and have revised item 3 on the form to reflect the possibility of appointing a parent in those circumstances.</p> <p>The committees agree with the suggestion and have revised item 8 accordingly.</p> <p>The committees agree with the suggestion and have revised item 11c accordingly.</p>
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	<p>educational goals. The guardian must assist the child in obtaining services if the child has special educational needs. As the child’s advocate with the school system, the guardian should attend teacher conferences and play an active role in the child’s education. The guardian of a younger child may want to consider enrolling the child in Head Start or another similar program. The guardian of an older child should consider the child’s future educational needs, such as college or a specialized school.”</p> <p>Page 12; Section: Termination of Guardianship <i>Comment:</i> It is the parent’s burden to prove that it is in the child’s best interest to return to their care. Generally maintaining a child’s stability is presumed to be in a child’s best interest, so parents should know that this is a high burden in practice. <i>Proposed Change:</i> Delete the second sentence in the final paragraph and add: “To terminate the guardianship, the parent must prove that the termination is in the child’s best interest. The court will presume that maintaining a child’s stability in the guardian’s home will be in their best interest.”</p>	<p>The committees have revised section 15 to indicate that the longer the child has lived safely with the guardian, the more difficult it will be to show that terminating the guardianship is in the child’s best interest. The committees do not, however, recommend the suggested change. The shifting presumptions and burdens of proof in Family Code sections 3040–3041 apply to <i>appointment</i> of a guardian of the person under Probate Code section 1514(b)(1). Probate Code section 1601 does not incorporate the same standards to <i>termination</i> of a guardianship, and whether those standards apply to termination is not settled law. Section 1601 authorizes the court to terminate a guardianship if it is in the child’s best interest. Stability in the guardian’s home is critical, but not the only factor relevant to determining whether termination is in the child’s best interest.</p>
<p>California Tribal Families Coalition by Mica Llerandi, Senior Attorney, Legal and Program Services</p>	<p>On page 1 of 5, there is discussion of arrangements that do not require a court order; including Indian custodianships here would be helpful.</p> <p>Additionally, in the “Notice” section here, there is also a discussion about how rights cannot be transferred without a</p>	<p>The committees agree and have added a discussion of Indian custodianships in item 2d of the form.</p> <p>The information on transfer of custody, now on page 2, is limited to child custody under California law. It does</p>

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	<p>court order but does not include this happening in an Indian custodianship.</p>	<p>not attempt to address transfer of child custody under tribal law or custom. The discussion of Indian custodianship, however, notes the possibility that legal custody may be transferred without a court order under tribal law or custom.</p>
<p>Family Violence Appellate Project by Cory Hernandez, Staff Attorney</p>	<p>Either amend the current form GC-205-INFO or create a new form that includes a chart specific to the rights and services offered to parents in guardianship and dependency proceedings. We specifically suggest a chart as that will be more understandable and accessible for self-represented litigants.</p> <p>Should the committees adopt our suggestion of an additional chart geared toward a parent’s rights and obligations, then reference that chart (whether included in an existing form or separate form) under item 14 on page 12 of form GC-205-INFO.</p> <p>The use of “juvenile court-ordered out-of-home childcare placement” on page 1 of GC-205-INFO may contribute to the perception that children will not be placed with a relative in a dependency proceeding, even though there is a preference for the same under the Welfare and Institutions Code. Therefore, we suggest the following language: “juvenile court-ordered child care placements (which can be with a relative, non-relative, or foster care)”</p> <p>On page 4 of form GC-205-INFO, the heading of item 10(b) should be revised. This subsection addresses the rights parents have with custody and visitation after the court grants the guardianship, which is very important information for parents. With the amount of information in this form and the small font, it will be difficult for parents to find this information. Thus, we suggest changing the header to read “what rights does the</p>	<p>The committees do not recommend the addition of a chart comparing rights and services available to parents (or, alternatively, a chart of parental rights and obligations) in guardianship and dependency cases. However, the committees have added information to this form and form GC-207-INFO/JV-352-INFO about the rights and services available to parents in probate guardianship and juvenile dependency proceedings.</p> <p>The committees have removed this term from the form and have revised forms GC-207-INFO/JV-352-INFO and JV-350-INFO to indicate that a foster parent/resource family may be a relative or nonrelative.</p> <p>The committees agree that issues of custody and visitation are important to both parents and guardians. The committees have therefore revised form GC-205-INFO to discuss custody and visitation in a separate, expanded section 10, before discussion of a guardian’s rights and duties. The new section includes a discussion of the guardian’s options to petition for termination of</p>

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

	<p>parent have to custody and visitation after the guardianship is granted.”</p> <p>Subsection (d) on page 2 of form GC-205-INFO should be included as its own separate number.</p>	<p>parental rights and to adopt the child. More information about those possibilities is also given in section 15, on termination of a guardianship.</p> <p>The committees agree and have moved this list of important questions to page 1 of form GC-205-INFO.</p>
Christine Flynn, Probate Court Investigator	<p>On page 2, #3. The first sentence is confusing. It is unclear what you’re trying to communicate. Are you trying to say that a parent can only nominate a guardian if the other parent is deceased or consenting? The sentence is too wordy and not simple enough for potential guardians.</p>	<p>The committees agree that the sentence was confusing and have revised the text to clarify their intent.</p>
Oneatha Herne, Probate Court Investigator	<p>“safety plan” the basis of the legislation and familiar to many caregivers and parents should be included in the appropriate caregiver categories including probate guardianship information, under GC-205-INFO, p1, item 2.</p> <p>Pg 1 Item 1 - 5th sentence – Suggestion: Change to - completely suspends the legal rights and duties of both parents, and transfers</p>	<p>The committees do not recommend including a “safety plan” among the caregiving arrangements discussed on form GC-205-INFO. California law does not authorize a voluntary placement or safety plan with a child welfare agency other than the Voluntary Placement Agreement pursuant to Welfare and Institutions Code sections 16507.2–16507.6. One purpose of AB 260 was to eliminate the use of these nonstandard “safety plans.” (See Assem. Com. on Judiciary, Analysis of Assem. Bill No. 260 (2021–2022 Reg. Sess.) as introduced Jan. 15, 2021, pp. 1, 6, 7–10.) For this reason, the committees do not recommend adding a discussion of safety plans to this form or any part of this proposal.</p> <p>The committees do not recommend the suggested change, as the language is overbroad. The appointment of a guardian does not, for example, suspend the parents’ duty to support their child financially. In addition, the term “both parents” may not apply to all families; Family Code section 7612(c) authorizes a court to find that a child has more than two parents if recognizing only two parents would be detrimental to</p>

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	<p>Pg 2 Item 2 Suggestion: Add Safety Plan</p> <p>Page 2 Item 10b – 3rd sentence – Suggestion: Change to - The rights of both parentssuspended</p> <p>Page 2 Item 10f – Suggestion: Add: as last sentence The type of assistance depends on the child’s eligibility and their relationship to you.</p> <p>Page 2 Item 10j – Suggestion: Add in front of last sentence: The probate court does not assist with obtaining services or financial support for the minor.</p>	<p>the child.</p> <p>See response to previous suggestion to add a “safety plan”</p> <p>The committees do not recommend referring to “both” parents for the reasons discussed above in response to the suggested change to page 1 of the form. The committees have revised the sentence to clarify that the rights of the parents are suspended.</p> <p>The committees have added a sentence to this section to refer users to new section 12, which discusses available benefits in more detail.</p> <p>The committees do not recommend the suggested change but have revised this section to indicate that the guardian should check with the court <i>self-help center</i>.</p>
<p>Orange County Bar Association by Daniel Robinson, President</p>	<p>The OCBA agrees that this proposal moderately addresses the stated purposes provided the following modifications are made:</p> <p>(1) This proposal and specifically Form GC-205-Info were intended to comply with the mandatory terms for such forms as set forth in AB260 (Stats. 2021); one of those requirements is for this form to explain how a probate guardianship differs from the services available to a child welfare caregiver in the child welfare system and a guardian appointed by the juvenile court. This form does not appear to explain those differences in legal rights and services but instead just obliquely references some comparisons found in Forms JV-350-Info, GC206-Info and GC-207-Info/JV-352-Info. The stated purpose of AB 260</p>	<p>Thank you for reviewing and submitting comments for this proposal.</p> <p>Government Code section 68511.1, as amended by AB 260 (Stats. 2021, ch. 578, § 1), requires the Judicial Council to “develop a form explaining the nature of a guardianship of a minor, the rights, duties, and obligations of a person serving as guardian of a minor, and information about the services and supports available to a probate guardian and how they differ from the services and supports available to a caregiver in the child welfare system or a guardian appointed by the juvenile court.” The committees intend form GC-207-</p>

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	<p>was to remedy some of the problems identified in various recent law review and expert publications about the abuses found by a “Hidden Foster Care” system created by various informal child welfare agency referrals. We do not see any adequate explanations of the different legal rights and remedies available in the various court and child welfare systems.</p> <p>For instance, no explanation is given as to rights to counsel for the various parties under various proceedings (appointed or approval as selected),</p> <p>no explanation given for the differences in rights to appeal (for instance there is no right to appeal if a person files a Form JV-210 – Application to Commence Juvenile Court proceedings and that application is denied by the social worker or the trial court);</p>	<p>INFO/JV-352-INFO to serve as the form mandated by section 68511.1 The other information forms in the proposal are intended to complement form GC-207-INFO/JV-352-INFO and provide additional information about specific types of guardianship. Chart 1 of form GC-207-INFO/JV-352-INFO describes the differences between the rights and duties of a juvenile court foster parent/resource family, a probate guardian, and a juvenile court guardian. Chart 2 describes the differences between the services and supports available to a juvenile court foster parent/resource family, a probate guardian, and a juvenile court guardian. Chart 3 describes the differences between procedures and rights in juvenile court and probate guardianship court.</p> <p>The committees have revised chart 3 to add a discussion of differences in the right to appointed counsel.</p> <p>The committees do not recommend adding a discussion of the differences between the rights to appeal the agency’s determination not to commence juvenile court proceedings in response to submission of form JV-210 or another application under Welfare and Institutions Code section 329. There is no difference. Both the probate court (with the option of using form JV-213) and an individual applicant (with the option of using form JV-212) may apply to the juvenile court under section 331 for an order directing the agency to commence juvenile court proceedings. If the juvenile court denies the application, the nature of the applicant makes no difference to the appealability of the order. (See generally <i>In re M.C. (2011) 199 Cal.App.4th 784</i>,</p>
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	<p>no explanation given for the rights to hearings (for instance one local rule for a Welfare and Institutions Code §329, §331 juvenile court determination says that the juvenile court judge can render a decision “with or without a hearing in the court’s discretion”);</p> <p>and no explanations given for the differences in investigations, investigators, costs of investigations.</p>	<p>801–802 & fn. 12.)</p> <p>The committees do not recommend adding a discussion of the right to a hearing on an application under section 331 for an order directing the agency to commence juvenile court proceedings. No such right exists. The statutes neither require nor prohibit a hearing. Setting a hearing, including an evidentiary hearing or argument, is within the court’s inherent authority if necessary to resolve the matter before it. <i>In re M.C., supra</i>, confirms this authority: “[U]nder section 331, the juvenile court adjudicates a controversy. Whoever filed the affidavit pursuant to section 329 will initiate the section 331 proceeding before the juvenile court. The juvenile court must receive and consider not only the section 329 affidavit, but also the social worker’s endorsement stating the reasons why he or she declined to proceed. <i>The court may also consider additional evidence in the form of investigative reports by the social worker, declarations, and, if necessary, witness testimony.</i> Upon receipt of this evidence, the court makes an independent assessment of whether ‘there was or is within the county, or residing therein, a child within the provisions of Section 300.’” (<i>In re M.C., supra</i>, 199 Cal.App.4th at 813–814 & fn. 21, emphasis added, citations omitted.)</p> <p>The committees have revised chart 3 on form GC-207-INFO/JV-352-INFO to add a discussion of the differences between investigations and a note on costs and waivers for probate investigations.</p>
<p>Superior Court of San Diego County by Mike Roddy, Executive Officer</p>	<p>Item 2.a. There are numerous instances where “CAA” can be used instead of “affidavit,” thus increasing clarity and reducing text. See, e.g.:</p>	<p>The committees agree and have revised the form to abbreviate “caregiver’s authorization affidavit.”</p>

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	<ul style="list-style-type: none">• Family Code section 6550 authorizes the use of the CAA. Section 6552 lays out the required contents of the CAA form.• NOTE: Some schools and health care providers may not recognize the authority of a caregiver based only on the CAA. In some circumstances, a caregiver may also be required to get resource family approval to exercise authority under the CAA. <p>“NOTE” at the end of 2a: If the reference to “resource family approval” is intended to mean the RFA process governed by WIC § 16519.5 et al., it may confuse readers as written who are unfamiliar with the foster care system. Perhaps a more generic term would suffice, e.g., “approval from a licensing agency.”</p> <p>Item 2.c.: Suggested edit (to match “their”): In some cases, a parents can also voluntarily give temporary care and custody of their child ...</p> <p>Item 3: Suggested edits: A parent, and only a parent, can <i>nominate</i> a guardian of the person for a child if the other parent(s) nominates, or consents in writing to the nomination of, the same guardian for that child; or However, the consent of the other parent(s) would not be required if, at the time the petition for appointment is filed, the other parent(s) are dead or lack legal capacity to consent to the nomination, or the consent of the other parent(s) would not be required for the child’s adoption. Even if the a parent does nominate a guardian, the court must still decide whether appointment of that person as a guardian would be in the child’s best interest. (See item 8, below.)</p> <p>Item 6. Suggested edits:</p>	<p>The committees have revised section 2 to indicate more generically that a caregiver might be asked to provide a written document as evidence of their caregiving authority.</p> <p>The committees agree with the suggested change and have revised item 2c accordingly.</p> <p>The committees agree that this section was confusing and have revised it to make it clearer.</p> <p>The committees agree and have made the suggested</p>
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	<p>a. "...then file the forms with the clerk of the court in the county where the child lives unless it would be better, for the child, <i>for the child</i> to file the petition in a different county. (This would also make it consistent with GC-206-INFO.)</p> <p>b. Requiring service of the new GC-207-INFO/JV-352-INFO may prove problematic because the form is 13-pages long and there are generally numerous parties that require service in these cases. It is all too often that service-related issues cause these cases to be continued. Adding any additional hurdles (possibilities for defects) to this process is not recommended, especially considering that many of these litigants are self-represented.</p> <p>Item 7. a. This section references the court investigator completing the investigation, which doesn't account for counties that designate another agency to complete the investigation. For example, our Family Court Counselors complete the investigations for relatives. The code allows for a court investigator, probation officer, or domestic relations investigator to complete these investigations.</p> <p>Item 8. Change "parents'" to "parent's" – A parent may not be able to care for the child because of the parents' <i>parent's</i> death, incapacity, military...</p> <p>Item 9. GC-240 was renamed to Order Appointing Guardian or Extending Guardianship of Person. There is s missing "t" in the last sentence "Having a copy of t <i>the Letters</i> will help you ..."</p> <p>Item 10. a.: Suggested edits – If a parent nominates a person as guardian</p>	<p>change.</p> <p>The committees do not recommend a change in response to this comment because service of form GC-207-INFO/JV-352-INFO is mandated by statute. Probate Code section 1511 requires that notice of the hearing on a petition to appoint a probate guardian include a copy of the information form required by Government Code section 68511.1.</p> <p>The committees agree and have revised item 7 to remove the reference to a social worker. The committees intend "court investigator" broadly to refer to anyone appointed under Probate Code section 1454 to conduct an investigation, whether court employee, contractor, or designee. Providing more detail about the possible titles of the investigator is likely to confuse a form user.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested changes.</p> <p>The committees agree and have made the suggested</p>
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	<p>and that person is appointed by the court, the court will grant the guardian, to the extent provided in the nomination, the same rights and duties regarding the child as that a custodial parent has unless the court finds good cause to withhold any of them.</p> <p>d.: Suggested edit –As the child’s advocate with in the school system, ...</p> <p>Item 11: The following edits are suggested.</p> <ul style="list-style-type: none">- Modify the following to match “their” The guardian is Guardians are subject to the regulation and control of the court in performing their duties.- For consistency of style, italicize “<i>Confidential Guardianship Status Report.</i>”- Suggest deleting the comma after “court visitors” in second paragraph and editing the second sentence as follows: In a county with such a program counties, a guardian is”	<p>change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made a substantially similar change.</p>
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GC-206-INFO Information on Probate Guardianship of the Estate		
Commenter	Comment	Committee Response
Advokids by Lauren Montana, Supervising Attorney	No comments. Like that the forms are separated out for person and estate.	No further response required.
Christine Flynn, Probate Court Investigator	Information on page 3, number 8 starting with paragraph 4: “If the probate court thinks the child...” through the next paragraph does not seem pertinent to guardianship of the estate but of the person and it seems it should be omitted from the information form about guardianship of the estate.	The committees recognize that the referral authorized by Probate Code section 1513(b) is more likely to occur in the context of a guardianship of the person, but the statute authorizes the court to make the referral in the context of any guardianship proceeding. Prospective guardians and parents should be aware of the possibility.
Orange County Bar Association by Daniel Robinson, President	(2) Form GC-206-Info requires corrected page numbers.	The committees have corrected the page numbering on form GC-206-INFO.
Superior Court of Orange County by Vivian Tran, Operations Analyst	The page numbers on pages 2, 4, and 5 all reflect “Page 3 of 5.”	The committees have corrected the page numbering on form GC-206-INFO.
Superior Court of San Diego County by Mike Roddy, Executive Officer	<p>Second paragraph, first bullet point: What is a guardianship of the estate and who can be appointed as one a guardian;</p> <p>Item 4: Suggest rewording, combining, and shortening the last two paragraphs as follows: A nomination is valid when made as described above is valid when it is made, except that a written nomination may specify that it shall take effect only provide that the nomination takes effect only if one or more future events occur, specified in the writing, including such as the later incapacity, detention, or death of the person making the nomination, happens. Unless a written nomination expressly provides others, it shall remain effective even if the person making the nomination dies or becomes legally incapacitated. Unless the writing making the nomination provides expressly that it does not, a nomination remains effective even if the</p>	<p>The committees do not recommend the suggested change but have instead replaced “guardianship” with “guardian” so the question makes sense.</p> <p>The committees agree that item 4 was confusing and have revised it in the spirit of the suggestions.</p>

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GC-206-INFO Information on Probate Guardianship of the Estate		
Commenter	Comment	Committee Response
	<p>person making the nomination dies or later becomes legally incapacitated.</p> <p>Item 6: Suggested edit to the first paragraph as follows: Once a person has decided that a child needs a guardian, the first step in the process is to complete Petition for Appointment of Guardian of Minor (form GC-210) and all other required documents, then file the forms with the clerk of the court in the county where the child lives unless it would be better <i>for the child</i> if you to filed them in a different county.</p> <p>Item 7. Requiring service of the new GC-207-INFO/JV-352-INFO may prove problematic because the form is 13-pages long and there are generally numerous parties that require service in these cases. It is all too often that service-related issues cause these cases to be continued. Adding any additional hurdles (possibilities for defects) to this process is not recommended, especially considering that many of these litigants are self-represented.</p> <p>Item 8. This section reference the county social worker completing the investigation, which doesn't account for counties where another agency may be designated to complete the investigation. For example, in San Diego County Superior Court, court investigators complete all investigations for a Guardianship of the Estate. The code allows for a court investigator, probation officer, or domestic relations investigator to complete these investigations.</p> <p>Also recommend modifying the following language: "...will</p>	<p>The committees agree and have made the suggested changes.</p> <p>The committees do not recommend a change in response to this comment because service of this form is required by statute. Probate Code section 1511(a) requires that notice of the hearing on a petition to appoint a probate guardian include a copy of the form required by Government Code section 68.511.1, that is, form GC-207-INFO/JV-352-INFO. The committees note that Probate Code section 1215 authorizes electronic service on the persons listed in section 1511(c) if they consent.</p> <p>The committees agree and have revised item 8 to remove the reference to a social worker. The committees intend <i>court investigator</i> broadly to refer to any person appointed under Probate Code section 1454 to conduct an investigation, whether court employee, contractor, or designee. Providing more detail about the possible titles of the investigator is likely to confuse a form user.</p> <p>The committees have revised this sentence to refer to</p>

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GC-206-INFO Information on Probate Guardianship of the Estate		
Commenter	Comment	Committee Response
	<p>contact you the petitioner, the child, and any other persons who might know about the child’s family ...”</p> <p>Item 10. GC-240 was renamed to Order Appointing Guardian or Extending Guardianship of Person.</p> <p>Item 14. Suggested edit – Depending on the amount and character of the child’s property, the guardian may elect choose or the court may require As guardian of the estate, you must follow the directions of the court ...</p> <p>Item 16. For consistency of style (re titles of forms), suggest deleting the quotation marks around “Inventory and Appraisal” and using italics instead.</p> <p>Item 18. For consistency of style, suggest the title be edited as follows: Records and Aaccounts</p> <p>Second sentence: The checkbook for the guardianship checking account is your an indispensable tool for keeping records of income ...</p> <p>Second paragraph: You will also have to be able to describe in detail the money and property remaining after you have paid the estate’s expenses.</p>	<p>“the proposed guardian.”</p> <p>The committees have revised item 10 to refer to form GC-240 by its correct title and make other changes.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees agree and have made the suggested change.</p>

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GC-207-INFO/JV-352-INFO Comparison of Guardians With Other Nonparent Caregivers		
Commenter	Comment	Committee Response
Advokids by Lauren Montana, Supervising Attorney	<p>What Are the Rights and Duties of Different Types of Caregivers, Section 2: Custody & Visitation: For Foster Parents (Resource Families):</p> <p>For physical custody: Add “generally” (court has the right to make specific placements)</p> <p>Add: “Legal custody remains with the parents subject to limitations by the court</p> <p>What Are the Rights and Duties of Different Types of Caregivers, Section 9: Other Duties: Current language says, “Foster parents <i>may</i> be invited to participate in or to support a child’s services such as counseling, Child and Family Team (CFT) meetings, or other types of treatment appointments.” CFT is not a support service. The language of WIC 16501(a)(4)(B)(i)(I) requires that caregivers be included in CFTs.</p> <p>Recommendation: CFT information should be separated into its own paragraph in Section 9 “Other Duties”:</p> <p>Foster parents must be included on the Child and Family Team (CFT) and be invited to the CFT meetings.</p> <p>Foster parents may be invited to participate in or to support a child’s services such as counseling and other types of treatment appointments.</p>	<p>The committees agree with the comment and have added the following language to the end of the sentence at issue: “..., <i>unless the court orders a specific placement.</i>”</p> <p>The committees agree with the suggestion and have revised the section accordingly.</p> <p>The committees have incorporated this change with minor modifications.</p>

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	<p>What Are the Rights and Duties of Different Types of Caregivers, Section 9: Other Duties: Add that Caregivers may attend hearings and communicate information about noted sections (healthcare, education ,etc.) to the court through the JV290 Caregiver Information Form.</p>	<p>The committees agree and have modified the form accordingly.</p>
<p>Alliance for Children’s Rights et al. by Sabrina Forte, Director of Policy and Impact Litigation</p>	<p>1. Improve accessibility by adding features that synthesize the information more succinctly.</p> <p>We appreciate the level of detail contained in each of the information forms. While we recognize that the Committees must strike a careful balance between thoroughness and brevity, we are concerned that a caregiver, youth, or parent will not read all the forms at the time that the forms are intended to be read and understood—at the beginning of a probate court case. We encourage the use of indices, internal hyperlinks, and even flowcharts or diagrams to make the material more accessible to families. An index at the beginning of the form would give caregivers, parents, and youth a preview of the specific content covered by each of the three charts, while allowing readers to skip to the topics of greatest concern within the document.</p> <p>We have attached a comparison chart [attached as Attachment 1] as an example of the type of tool that would help synthesize the information in the form. If the form cannot accommodate this kind of tool out of concern for brevity, we recommend posting a comparison chart and similar tools on the Judicial Council website and providing a link on the first page of the GC-207-INFO form.</p> <p>2. Cutting out-of-court alternatives would help reduce length and avoid confusion.</p>	<p>The committees have continued to try to balance thoroughness with brevity in revising the forms, including the charts, to present the most meaningful information in the most efficient way. The committees do not recommend adding information targeted at specific persons but have tried to reframe discussions wherever possible to present information in a way that speaks to all users. In addition, the committees have added hyperlinks to assist online users.</p> <p>Although updates to the California Courts website are beyond their purview, the committees and staff will consult with the Judicial Council web content team to update information on the Online Self-Help Center, and will explore whether a version of the suggested chart would be useful as an overview or at-a-glance version of the longer form or forms.</p> <p>The committees agree with the suggestion and, after determining that caregiving arrangements without court involvement are beyond the scope of the form mandated</p>

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	<p>Although all the information contained in this form is important, we recommend cutting the column on out-of-court alternatives (CAAs and VPAs). These can be sufficiently covered in the GC-205-INFO form and will not be relevant to most of the readers of the GC-207-INFO form, which is provided after someone has already filed a probate guardianship petition.</p> <p>3. Clarify that dependency court path is not always chosen and that not all caregivers are eligible to become resource parents.</p> <p>A goal of this proposal is to ensure that families can make informed choices when it is necessary to separate a child from their parents. As practitioners in probate and/or juvenile court, we know that families do not always have equal access to each of the available options. Often, we meet families when a juvenile or probate court petition is already pending, which limits the families' options going forward. Unlike in probate court, dependency court jurisdiction requires the child welfare agency to file a petition; families cannot commence dependency court proceedings on their own; and the court may decide not to take jurisdiction over the child.</p> <p>We recommend including language at the beginning of the GC-207-INFO, and where appropriate throughout, to help families understand that even if they decide that dependency court is the best option for their family, the child may not meet the threshold for becoming a dependent, and the caregiver may not meet the requirements for becoming a resource parent, which are far more detailed and specific than any requirements for being appointed a child's guardian in probate court. This is an important, and often dispositive, consideration for families.</p>	<p>by Government Code section 68511.1, have removed this column from chart 1 of the form.</p> <p>The committees have modified the form to clarify that that the child welfare agency, and no one else, may file a petition to commence juvenile dependency proceedings.</p> <p>The committees agree and have added responsive information to page 1 of the form.</p>
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	<p>4. Clarify funding information. We recommend putting all the information about financial supports and cash payments in one place, separate from the information on responsibilities and financial liability.</p> <p>We also recommend clarifying that foster care rates are per child (CalWORKs rates are more complicated and do not increase per child in the same way) and that rates are different for children placed out of state.</p> <p>We appreciate that staff intends to update the forms annually to reflect the annual foster care rate changes. Otherwise, the information on financial supports would become obsolete quickly. Although readers can search the year’s All-County Letters (linked in the GC-207-INFO form) to find the new rates, this requires a level of time and resources that the primary audience of these forms will not have.</p> <p>5. Resource parent should be used consistently Although juvenile court stakeholders continue to use the term “foster parent” colloquially, we recommend that these forms adopt the chosen term in California, “resource parent.” The draft forms use the terms interchangeably, but we recommend always using “resource parent.”</p>	<p>The committees have organized the form into separate charts, including one comparing the rights and duties of caregivers and another comparing the services and supports available to caregivers.</p> <p>The committees agree and have changed the subheadings of chart 2 to indicate that the payment rates are given per child. Chart 2 also makes clear that foster youth who are placed out of state are eligible for funding at the foster care rate in the state where they are placed.</p> <p>No response required.</p> <p>The committees do not recommend replacing “foster parent” with “resource parent” on the form. California statutes and rules of court continue to use the terms “relative caregiver” and “foster parent” to refer to caregivers for children in juvenile court-ordered foster care. More important, these forms are intended for use by nonprofessionals who are less likely to be familiar with California’s chosen term. As shown by other comments to this proposal, the use of “resource parent” in the form, whether exclusive or as an alternative to “foster parent,” is likely to confuse users. The committees have therefore explained on page 1 that a “resource family” is a foster parent who has been approved through the resource family approval process</p>
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	<p>6. Clarify availability of the full array of child care resources that are not tied to court jurisdiction.</p> <p>While it is true that there are no child care assistance programs solely dedicated to informal caregivers or court-ordered guardians, we recommend including information about the broad array of subsidized child care programs that are available to families with low incomes. Families caring for children who have been formally or informally placed outside their home qualify for most of these child care programs, regardless of family income. This additional information will also help resource families better understand how the Emergency Child Care Bridge fits in with other subsidized child care options. Because most of the available child care options are based on factors unrelated to court jurisdiction, we recommend merging the columns under “Childcare Assistance” on page 26 and adding the text below. If the columns are not merged, then the recommended language below should replace the current language in each column (with an additional reference to the Emergency Child Care Bridge in the first column). We also recommend changing the heading from “Childcare Assistance” to “Publicly-Funded Child Care.”</p> <p>Recommended language: California offers a variety of publicly-funded child care programs that help families, including but not limited to resource families and foster youth who are parents, pay for emergency and long-term, continuous child care. Many of these child care programs offer special</p>	<p>and used the term “foster parent/resource family” in applicable headings and text to indicate that these terms refer to the same type of caregiver. “Caregiver” is used as an umbrella term to refer to any nonparent who cares for a child.</p> <p>The committees agree that the suggested information would be helpful to families and caregivers and have incorporated it, with some modifications, it into the form.</p>
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	<p>consideration for families caring for children who have been formally and informally placed outside their homes. Please refer to the guardianship forms GC-205-INFO and JV-350-INFO for more information on these child care programs.</p> <p>Local child care resource & referral agencies (R&R) help families find child care and determine whether you qualify for publicly-funded child care to help you pay for it. Parents and guardians can use this website to find their local R&R for child care assistance: https://rrnetwork.org/family-services/find-child-care.</p> <p>In addition, we suggest the following minor revisions to improve clarity and accuracy:</p> <p>Page 19; Section: Caregiver’s Fundamental Responsibilities (CAA and VPA) <i>Comment:</i> Says that a CAA caregiver can work with the social worker to access available resources/services. This is true for a VPA, but not for a CAA. <i>Proposed Change:</i> “If the child has special needs the caregiver works with the social worker to make sure the child receives available resources and services.” [deletes “(CAA or VPA)”]</p> <p>Page: 19; Section: Custody and Visitation (Resource Families) <i>Comment:</i> To distinguish from a VPA, clarify that the child’s custody is subject to juvenile court orders. <i>Proposed Change:</i> “The juvenile court orders the child into the care and custody of the child welfare agency.”</p> <p>Page: 20; Section: Custody and Visitation (CAA and VPA) <i>Comment:</i> Although it is true that parents can terminate a VPA at any time, there are potential consequences (namely, the child welfare agency can file a petition in dependency court).</p>	<p>With the exception of a brief reference on page 1, the committees have removed the discussion of caregiving arrangements that do not require a court order, including the entire left column of chart 1, from this form. The now discusses only court-ordered arrangements for care and custody of a child.</p> <p>See previous response.</p> <p>See previous response.</p>
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	<p><i>Proposed Change:</i> Clarify as follows: “If the parent terminates the VPA prior to the agreed-upon date, the social worker has the discretion to initiate proceedings in dependency court.”</p> <p>Page 20; Section: Health Care (Resource Families) <i>Comment:</i> Typo <i>Proposed Change:</i> Revise to say “arranges health care for the child’s medical, dental, and mental health needs.”</p> <p>Page 22; Section: Consent to Changes in the Child’s Status (Resource Parents) <i>Comment:</i> Note that the juvenile court can give the required consent. <i>Proposed Change:</i> Add to the end of the sentence, “but the juvenile court can consent.”</p> <p>Page 24-25; Section: Cash Payments—Relatives and Nonrelatives (Probate Guardian) <i>Comment:</i> This column uses the word “placed,” but this is a term of art used in the dependency context, and it is confusing to use it in the probate guardianship context. <i>Proposed Change:</i> Replace “placed” with “lives with” or something similar.</p> <p>Relatedly, the last paragraph on page 24 includes information on California foster youth in the “Probate Guardian” column. Move out-of-state foster youth reference to the left column (Juvenile Court Non-Guardian Caregiver).</p> <p>Page 25; Section: Cash Payments—Nonrelatives (Probate Guardian) <i>Comment:</i> It would help to clarify that nonrelated probate legal guardians receive state AFDC-FC.</p>	<p>The committees have revised the form to correct the typo.</p> <p>The committees agree with the suggested change and have modified the form accordingly.</p> <p>The committees agree and have modified the form accordingly.</p> <p>The committees agree and have moved this paragraph to the appropriate column.</p> <p>The committees have made the suggested change.</p>
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	<p><i>Proposed Change:</i> Add word “state” before AFDC-FC.</p> <p>Page 25; Section: Medical Insurance (Probate Guardian) <i>Comment:</i> Even if a child does not qualify for Medi-Cal based on linkage to a benefits program, they could still qualify based on income. <i>Proposed Change:</i> Clarify that child may qualify based on income if not eligible based on linkage to CalWORKs or state AFDC-FC.</p> <p>Page 25; Section: Medical Insurance (Juvenile Court Guardian) <i>Comment:</i> Eligibility for FFY Medi-Cal is available only if a young person exited foster care after age 18, which in most cases won’t apply to youth who turn 18 in a juvenile court guardianship. <i>Proposed Change:</i> Remove reference to FFY Medi-Cal in this column.</p> <p>Page 26; Section: Extended Foster Care <i>Comment:</i> This section includes ILP and Chafee, which have broader eligibility criteria than extended foster care. <i>Proposed Change:</i> Change section heading to “Transition Age Youth Supports” or something similar.</p> <p>Page 27-28; Section: Special Needs Supplements (Juvenile Court Guardian) <i>Comment:</i> Youth in juvenile court guardianships aren’t eligible for the expectant parent payment nor for Education Travel Reimbursement. <i>Proposed Change:</i> Remove references to EPP and ETR from this column.</p> <p>Page 29; Section: First Steps (Probate Guardian)</p>	<p>The committees have made the suggested change.</p> <p>The committees have made the suggested change.</p> <p>The committees have made this change with a modification.</p> <p>The committees have made these changes.</p>
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	<p><i>Comment:</i> Clarify that the investigator prepares a report but does not automatically “submit it to the parties.” Parties and counsel have to specifically request a copy of the report. <i>Proposed Change:</i> Delete “and the parties.”</p> <p>Page 29; Section: Court Oversight (Juvenile Court Guardian) <i>Comment:</i> For a no visitation order, the court must make a detriment finding. Additionally, the juvenile court may terminate (rather than dismiss) jurisdiction following an order of guardianship. <i>Proposed Change:</i> Delete “not be in the child’s best interest” and add “be detrimental.”</p> <p>Replace “will dismiss” with “will terminate.”</p> <p>Page 30; Section: Role of Social Worker or Probation Officer (Juvenile Court Guardian) <i>Comment:</i> There is some continued social worker involvement for nonrelative probate legal guardians who request state foster care funding. <i>Proposed Change:</i> Add “If a nonrelative probate legal guardian requests State AFDC-FC, a social worker will keep a case open for funding purposes.”</p>	<p>The committees have modified the form to clarify that the report must be made available to all persons who have been served in the guardianship proceeding and their attorneys.</p> <p>The committees have made this change with a modification.</p> <p>The committees have made this change.</p> <p>The committees understand this comment to refer to the involvement of a social worker in a nonrelative <i>probate</i> guardianship and have modified the applicable discussion to indicate that there will be no social worker involvement after the appointment of a probate guardian unless the guardian receives public benefits to help support the child.</p>
<p>California Tribal Families Coalition by Mica Llerandi, Senior Attorney, Legal and Program Services</p>	<p>[Section: Caregivers who provide care for children who are not involved in a court case]</p> <p>[Chart: What are the Rights and Duties of Different Types of Caregivers?]</p> <p>In these sections here, there is no discussion of Indian custodians. We recommend including discussion of Indian custodianships here.</p>	<p>Except for a brief reference on page 1, the committees have removed the discussion of caregiving arrangements that do not require a court order from this form and expanded the discussion of those arrangements in form</p>

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	<p>[Chart: Comparison Between Guardians and Other Nonparent Caregivers] In this section, the discussion is focused on funding for nonparent caregivers. However, the funding is strictly connected to court-ordered placements. We recommend including that these services and supports are available to court-ordered caregivers.</p>	<p>GC-205-INFO to include a discussion of Indian custodianship.</p> <p>See previous response.</p>
<p>Christine Flynn, Probate Court Investigator, Mendocino County</p>	<p>Page 2: Caregiver’s fundamental Responsibilities and General Duties: for Guardians it says, “In general, a guardian must care for and control the child the same way a parent would”. Maybe change to “A guardian has care, custody and control of a minor the same way a parent would”.</p> <p>Also, in this first section there is mention of CalWORKs Non-needy caretaker funds for relatives and foster care payments for foster parents to help pay for a child’s needs, but no mention of a guardian being able to receive Cash Aid benefits to help offset costs for a minor in a guardianship. Maybe consider eliminating the lengthy paragraph about foster care and CalWORKs and change the wording under CAA to: “a relative caregiver may receive CalWORKs Non-Needy Caretaker Funds and a non-relative cannot receive any funds”.</p> <p>Page 6 Legal Liability If you’re citing the Civil Code, you don’t need to the statement in the Guardians column explaining “the guardian, like a parent, is liable for the harm and damages...”. You can take this statement out or leave it in and take out the Civil Code verbiage.</p> <p>Page 6 Other duties</p>	<p>The committees have made the suggested change with a slight modification.</p> <p>The committees have removed the discussion of the CAA and other caregiving arrangements that do not require a court order, including the discussion of the benefits mentioned by the commenter, from this form.</p> <p>The committees have removed the text of Civil Code section 1714.1(a) from the form but retained the citation.</p> <p>The committees do not recommend the suggested</p>

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	<p>In the guardians column: you might consider changing the first sentence to “The court may require the guardian to complete a parenting class, or to obtain counseling for the minor”</p> <p>What Services and Supports Are available to different caregivers? Consider changing the columns of Juvenile Court Guardian and Probate Guardian so the Juvenile court guardian column is next to the Juvenile Court non-guardian caregiver. The information in the Juvenile Court non-guardian caregiver and Juvenile Court Guardian is similar and, in some cases, identical. Where it is the same, you could note in the Juvenile court guardian column “same as noted under juvenile court non-guardian caregiver” or “same as noted in the first column”.</p> <p>Extended Foster Care: On page 9 The Juvenile Court Non-Guardian Caregiver has information about Independent Living Program. There is information about youth who entered Kin-GAP guardianship that can be omitted. It can be amended to read: “Independent Living Program funding is available for current and former foster youth up to age 21, including youth who were in foster care on or after age 16”. Take out the rest of the sentence.</p> <p>The Juvenile Court Guardian column has the same information about Independent Living Program. The sentence is the same and the information starting with “current and former foster youth up to age 21, including youth who were in foster care on or after age 16” can be eliminated.</p> <p>Page 9 Childcare Assistance: In the Juvenile Court Guardian column you can just say “No subsidized childcare assistance is available after a guardianship is established”.</p>	<p>change in this section. The guardian’s duty to provide for the child’s mental health treatment, including counseling, is discussed in the form’s section on the guardian’s duty to provide for the child’s health care.</p> <p>The committees have abbreviated the information in column 3 when it is duplicative of the information in column 1. The committees do not, however, recommend switching the columns. There are advantages and disadvantages to different modes of presentation. The committees have chosen to put probate guardianships in the center column better to distinguish juvenile court-ordered foster care/resource family placement from juvenile court guardianship.</p> <p>The committees have made this change with minor modifications.</p> <p>The committees have made the suggested change with modifications.</p> <p>The committees do not recommend the suggested change. Income-based childcare assistance is available to eligible guardians and children.</p>
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	<p>Page 10 Special Needs Supplements: Consider changing the word supplements to “financial support”</p> <p>Take out “Clothing allowance” under Juvenile court guardianships since this only pertains to foster youth.</p>	<p>The committees have replaced “supplements” with “supplemental payments.”</p> <p>The committees do not recommend this change. Welfare and Institutions Code section 11364(c) authorizes a clothing allowance, as described in section 11461(f), to be paid as part of a Kin-GAP payment for a child living with an approved relative guardian. Section 11405(h) authorizes a clothing allowance to be paid for a child living with a nonrelative guardian whether appointed by a probate court or a juvenile court.</p>
<p>Oneatha Herne, Probate Court Investigator</p>	<p>The document is very informative and lengthy. While it is hopeful that the recipient will read the entire document, to maintain the readers’ attention the main target information should be in the beginning and/or easy to locate. The following may be helpful: a landscape layout, a table of contents, internet links to the target information, the categories should line up together for easier comparison.</p> <p>For clarity several terms should be defined and or distinguished. Many families are unaware of the process, distinctions and often the county child welfare agency (CPS) action is viewed as that of the juvenile court. There are certain perceptions of what foster care and foster parent means, which is generally the child will be taken away from the parent and family, placed in the system and in the home of someone unknown, with other like children, and lost to the family. Several changes will make the information clearer to the general public.</p> <p>Define and/or distinguish Child welfare agency commonly known as Child Protective</p>	<p>The committees agree generally and have revised the first page and created a simple table of contents for the three charts. As circulated, the form included links that are clickable when the forms are accessed online.</p> <p>The committees have revised page 1 of the form to include simple explanations but have kept the introduction brief so readers can get to the charts quickly.</p> <p>The committees do not recommend changing terminology at this stage but have added language to</p>

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	<p>Services (CPS),... Juvenile Court dependency or delinquency Juvenile Court case vs Juvenile Court involvement Foster care placement by county child welfare agency vs by Juvenile Court Foster care defined county child welfare agency Juvenile Court Resource family, what is it? county child welfare agency involvement Foster parents compared with resource family how do they differ county child welfare agency involvement vs Juvenile Court involvement Non-related extended family member NREFM county child welfare agency involvement</p> <p>From the information provided it appears there can be a foster care placement by the county child welfare department. I am not sure whether that would be the Department of Family, Child and Adult Services or Child Protective Services (CPS) in some California counties.</p> <p>It is stated that a voluntary placement can occur without there being a (juvenile) court case. This occurs with the involvement of the county child welfare department. It is unclear whether there is court involvement required for the placement status to qualify for foster care funds. The VPA caregiver (considered a foster parent) is identified as one for a child not involved in a court case. It is unclear whether it is one of the Juvenile Court Non-Guardian Caregiver on pg 7 for Services and Supports</p>	<p>page 1 indicating that the child welfare agency is commonly referred to as child protective services or CPS. The committees have also revised the form to explain that a resource family (parent) is a foster parent who has been approved by the child welfare agency through the resource family approval process. The committees have also revised the use of <i>foster parent</i> and <i>resource family</i> to clarify that these terms refer to the same role and differ only in the manner of agency approval.</p> <p>The commenter is correct that each county may have a different name for the agency responsible for providing child welfare services, conducting child welfare investigations, and filing dependency petitions in juvenile court. The committees have followed the convention of the Legislature, the California Rules of Court, and other Judicial Council forms in using the term “child welfare agency” to refer to this agency.</p> <p>The commenter is correct that a Voluntary Placement Agreement requires the participation of the child welfare agency. The committees, however, have removed the discussion of caregiving arrangements not requiring a court order from chart 1, and so do not recommend the suggested change.</p>
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	<p>Available to Different Caregivers.</p> <p>Chart 2: What Services and Supports are Available to Different Caregivers? Recommend that a category be added to the chart on pgs 7-11 about personal support, social worker and agency assistance as well as juvenile court support (if applicable) which is available for caregivers in VPA, Safety Plans, foster parents, resource families, guardians in juvenile court. It should also be noted that the above support and assistance is not available in a probate court guardianship.</p> <p>Page 1 Caregivers ...Not Involved In Court Case Suggestion: For consistency with the chart begin with the above and end first paragraph with ... The following are voluntary and parents can end these arrangements/agreements at any time.</p> <p>Informal Caregivers Suggestion: Add: (An agreement between parent and adult caregiver) Parents with legal and physical custody of the child can create a private agreement with an adult for a limited time, granting the caregiver only the authority in the written, stated terms. (see GC-205-Info item 2b)</p> <p>Voluntary Placement ...Caregivers Suggestion: Add: (A written agreement between parent and county child welfare agency also known as CPS). The terms foster care, foster parents, and resource families should be defined and differentiated if needed for clarity, either before the discussion on caregivers or see GC-205, pg 2 item 2c, particularly paragraph 2.</p>	<p>The committees do not recommend the suggested addition. The committees have removed the discussion of caregiving arrangements that do not require a court order from this form except for a brief reference on page 1.</p> <p>See response to previous comment.</p> <p>No further response required.</p> <p>No further response required.</p>
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	<p>Suggestion: Add “Safety Plan” the reason for the proposal and arrangement many families and parents are familiar with.</p> <p>Safety Plan Caregivers (A written agreement between parent and county child welfare agency also known as CPS) With this agreement the parent is voluntarily allowing their child to be placed with a family member, NREFM (needs to be defined), or foster parent</p> <p>Caregivers Involved In Court Case Foster parents or resource families: The terms Juvenile Court, child welfare agency, foster placement, foster care, foster parents and resource families should be defined and differentiated if needed for clarity, before the discussion on caregivers. The term resource family is not widely known and less understood in my experience. There is a general understanding of the historic definition of foster care, foster parent, or foster home. Is approval as a resource family a foster care placement? The explanation of a resource family is not clear. As written it appears to refer to foster parent approval. Referral to JV-350 is not helpful, locating the reference to resource family approval is difficult (pg 5) and still does not explain the program. In addition to a clear explanation a website link may be helpful. A sample explanation for the resource family program follows: The Resource Family Approval Program is a unified, family-friendly, and child-centered resource family approval process to replace the</p>	<p>The committees have removed the discussion of caregiving arrangements that do not require a court order from this form except for a brief reference on page 1. Furthermore, California law does not authorize a voluntary placement or safety plan with a child welfare agency other than the Voluntary Placement Agreement pursuant to Welfare and Institutions Code sections 16507.2–16507.6. One purpose of AB 260 was to eliminate the use of these nonstandard “safety plans.” (See Assem. Com. on Judiciary, Analysis of Assem. Bill No. 260 (2021–2022 Reg. Sess.) as introduced Jan. 15, 2021, pp. 1, 6, 7–10.) For this reason, the committees do not recommend adding a discussion of safety plans to this form or any part of this proposal.</p> <p>See response to comments on definition of and distinction among terms, above. The committees have tried to make this form as clear and useful as possible without adding to its already considerable length. The committees do not recommend adding a description of the resource family approval process, as that is beyond the scope of this proposal.</p>
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	<p>existing multiple processes for licensing foster family homes and approving relatives and Nonrelative Extended Family Members (NREFMs) as foster care providers, and to approve families for legal guardianship or adoption. A resource family is considered eligible to provide foster care for related and unrelated children in out-of-home placement. They are also considered approved for adoption or legal guardianship and do not have to undergo any additional approval or licensure processes but will have to meet some additional requirements. (Los Angeles County)</p> <p>To educate relatives on their ability to contribute to or participate in the court process, Suggestion Add after the first sentence “ If you are the child’s relative you can still give the court important information in writing, about the child (JV-350, item 6). Certain relatives are entitled to notice and to attend court hearings. (add if appropriate).</p> <p>Guardians: Suggestion Add to last sentence but different support, services and resources are available (see pages 5-13).</p> <p>Page 2 Caregiver’s Fundamental Responsibilities and General Duties pgs. 2-6 Heading Caregivers ...(CAA and VPA) Suggestion: Add: Safety plan to heading and all categories. VPA and Safety Plan should show that there is county child welfare agency (CPS) involvement or contact.</p>	<p>The committees do not recommend the suggested change. However, the committees have added language to item 6 on form JV-350-INFO to clarify that a relative is entitled to submit information to the court in writing and may ask the court to allow them to attend hearings.</p> <p>The committees agree with the suggested change and have added language to the form to indicate that different supports, services, and resources are available to guardians.</p> <p>The committees do not recommend the suggested addition. The committees have removed the discussion of caregiving arrangements that do not require a court order from this form except for a brief reference on page 1. The committees do not recommend adding a discussion of safety plans for the reasons discussed above in response to the commenter’s earlier suggestion.</p>
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	<p>Pgs 2-6 Suggestion: Incorporate or add information for resource families under each category.</p> <p>pg.2 Heading Foster.....Families) Suggestion: If Foster Parents remain in the heading, for clarity, and/or should be added before Resource Families and the parentheses removed,</p> <p>also Pgs 7-11 If Foster Parents remain in the heading for clarity, and/or should be added before Resource Families.</p> <p>Discussion about financial support to care for the child, under all headings appear best left as the last entry, as under CAA.</p> <p>Foster parentsclothing. Suggestion: Move to last entry and add Additional funds for special needs may be received.</p> <p>pg.2 Heading Guardians Suggestion: Add: as last entry - You may be able to receive assistance, support, resources and finances for the child’s needs (see pgs 7,8)</p> <p>Pg.2 Heading Guardians - Custody and Visitation 2nd paragraph, 2nd sentence Suggestion: Add: the rights of both parents are completely suspended - It is not always clear to the parent(s) involved or the non-custodial parent.</p>	<p>The form has been modified to use the term “foster parent/resource family.” The committees do not recommend adding separate information for resource families except where different requirements or services apply.</p> <p>The committees agree with the suggestion and have modified the form accordingly.</p> <p>The committees have made the suggested change.</p> <p>The committees do not recommend the suggested change. Because financial support is often of most interest to potential caregivers, it is discussed first in chart 2.</p> <p>The committees do not recommend the suggested change. Supplemental payments for special needs, including a clothing allowance, are discussed in chart 2.</p> <p>The committees do not recommend the suggested change. Supplemental payments for special needs are discussed in chart 2.</p> <p>The committees agree and have made the suggested change with minor modifications.</p>
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	<p>Pgs.3-4 Heading Foster....Families) and Guardians – Health Care Suggestion: Add: (See pg 8 Medical Insurance) as last entry (No information provided for CAA or Safety Plan caregivers regarding health care resources)</p> <p>Pgs 4-5 Heading Foster....Families) and Guardians – Education Suggestion: Add: (See pgs 10-11 Special Needs)</p> <p>Pg 5 Financial Obligation Note JV-350 #26 says you can get money to help you support the child, while GC-205 p5, 10f indicates the guardian can seek support from various sources</p> <p>Heading Caregivers and Foster.....Families) appear duplicative of pg 2, you may want to eliminate financial information from pg 2 or omit category, if so</p> <p>Heading Guardians – Move 1st paragraph on pg 5 to 5th paragraph on pg 2 and Suggestion: Add: as last entry Financial help to support the child may be available from county, state, federal or other public or private funds. The type of assistance depends on the child’s eligibility, their relationship to you and whether the guardianship is in probate court or juvenile court (see pgs 7-8; GC 205-Info pg 5,10f.; JV-350-Info pg 5).</p> <p>Pg 6 Legal Liability JV-350-Info , pg 4 item 25 states child’s negligent conduct may be imputed to guardian.</p>	<p>This form no longer discusses caregiving arrangements that do not require a court order except for a brief reference on page 1. These arrangements are beyond the scope of the form.</p> <p>The committees agree with the suggested change and have added a reference to the later discussion of special needs.</p> <p>The committee notes that different resources and financial supports are available to a guardian appointed by a juvenile court from those available to a guardian appointed by a probate court.</p> <p>The committees have removed discussion of caregiving arrangements that do not require a court order from this form and have revised the discussion of financial obligation to avoid unnecessary repetition.</p> <p>The committees do not recommend this change. To streamline this form, some information was moved to form GC-205-INFO. The amount of information in all the complementary forms is considerable, and the forms are long. The committees had to make decisions about the appropriate amount of detail to include in all the forms to keep them as succinct as possible.</p> <p>No response required.</p>
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	<p>Pg 7 For less distraction and an easier read Suggestion: the categories of Cash Payments – Relative and Non-Relatives move to the 1st row above the types of caregivers; the column for Juvenile Court Guardian move to the middle column as many entries are similar to the 1st column , Juvenile Court Non-Guardian Caregivers; the last entry under Probate Court Guardian appears more appropriate under one of the Juvenile Court headings</p> <p>Pgs 8, 9 Both Juvenile Court headings for Medical Insurance and Extended Foster Care appear duplicative, you may wish to simplify entries for one</p> <p>Pg 10, 11 Both Juvenile Court headings for Special Need Supplements appear duplicative, you may wish to simplify entries for one</p> <p>Pg 12 In Headings Probate Guardianship and Juvenile Court Guardianship Suggestion: Add: (See GC-205-Info for more information) and (JV-350-Info for more information), respectively.</p> <p>Page 12 First Steps Probate - 2nd paragraph, 5th sentence The investigator Suggestion: Add: : or county social worker report; last entry add The parents do not get counsel appointed by the court. The child may, at the court’s discretion.</p> <p>Juvenile – After 1st sentence Suggestion: Add: Both the</p>	<p>The committees do not recommend these changes. The committees considered different ways to organize and present the information. There were many competing considerations such as clarity, thoroughness, and efficiency. The committees selected the format and organization that best balanced all considerations.</p> <p>The committees have revised chart 2 on the form to reduce duplication of information.</p> <p>The committees have revised chart 2 the form to reduce duplication of information.</p> <p>The committees do not recommend this change. Page one of this form includes references to these forms and general descriptions of the information that each contains. In addition, when specific information is included in another form, a reference to that form has been added.</p> <p>The committees have revised chart 3 to include additional information about the similarities and differences of the rights and procedures for in juvenile court from those in probate court, including differences in the right to appointed counsel.</p> <p>The committees have expanded the information in Chart</p>
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	<p>parents and child will be appointed counsel by the court; If the court has orderedrelative or foster care, incorporate resource family, if appropriate.</p> <p>Page 13 Last paragraph – After appointed Suggestion: replace with: if the guardian is not related to the minor a county social worker will visit the guardian and minor every 6 months. There is no court investigator involvement unless ordered by the court. The court cannot order family reunification services (include current definition) and does not provide any services to the guardian, parent or child or financial support.</p> <p>Page 13 Juvenile – Last sentence - social worker or probation officer involvementany services Suggestion: Add including permanent placement services.</p> <p>Page 13 Terminating Parental Rights Probate – 1st sentenceit suspends Suggestion:(replace word them) with the rights of both parents</p>	<p>3 about appointment of counsel and foster care placement in juvenile court.</p> <p>The committees have revised chart 3, including this paragraph, to clarify the information presented. The committees have modified the language on social worker contact to indicate that no social worker is involved unless the child or guardian receives public financial support or services.</p> <p>The committees do not recommend this change. The guardianship is a permanent placement unless a child at least 12 years old, the child’s parent, or the guardian files a petition to terminate the guardianship. Termination of the guardianship must be in the child’s best interest.</p> <p>The committees have made modified the language to refer to parental rights without reference to the number of parents.</p>
<p>Elizabeth Ichikawa, Supervising Court Investigator, Solano County Superior Court</p>	<p>I am also concerned that form GC-207-INFO/JV-352-INFO gives the impression families have a choice regarding which type of guardianship they can obtain. For many the Juvenile Guardianship is appealing because there are more services and it does come with financial assistance, but it is not necessarily a choice families get to make. I think in that sense, this form is misleading.</p>	<p>The committees agree and have added information to page one explaining more clearly that a family cannot choose to go to juvenile court.</p>

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<p>Orange County Bar Association by Daniel Robinson, President</p>	<p>(3) Form GC-207-Info/JV-352-Info is deficient in the same manner discussed above for Form GC-205-Info.</p>	<p>As noted above, new comparison form GC-207-INFO/JV-352-INFO is the primary form in the proposal. This form, as mandated by Government Code section 68511.1, compares the rights, duties, services, and supports for probate guardians, juvenile court-appointed guardians, and court-appointed child welfare caregivers. Additional information about several topics, including appointment of counsel and investigations, has been added to this form in response to public comments. The other forms provide more detail about specific types of guardianship.</p>
<p>Superior Court of Los Angeles County by Brian Borys</p>	<p>GC-207 Info form should be adopted but not required for the court to serve upon first hearing; by this point the parties have filed a petition with the court. This form should be available on court websites, self-help and can be referenced in the petition info forms, notice of hearing, and other sources but the court should not be required to serve it.</p>	<p>The committees agree that the court is not required to serve form GC-207-INFO/JV-352-INFO. Probate Code section 1511 requires that notice of the hearing on a petition to appoint a probate guardian include a copy of the information form mandated by Government Code section 68511.1. GC-207-INFO/JV-352-INFO is that form. Because section 1511 does not specify who must give notice of hearing and, thus, the form (and a copy of the petition), section 1460 prescribes the duty to give notice. Section 1460(b) requires the petitioner to give notice of the hearing, so the duty falls on the petitioner to include with the notice a copy of the petition and form GC-207-INFO/JV-352-INFO. Nothing in statute or form can reasonably be read to preclude the posting of the form on court websites, to discourage persons from visiting self-help centers, or to discourage self-help center staff from providing information to self-represented visitors.</p>
<p>Superior Court of San Diego County by Mike Roddy, Executive Officer</p>	<p>While the new form is informative, it may be beneficial to simplify and shorten for the intended audience.</p>	<p>The committees have revised the form to clarify and simplify it without omitting critical information. The form now cautions users that it is not intended as a substitute for legal advice and also includes links to the</p>

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	<p>Our court opposes the requirement for this form to be served with the petition. As mentioned, service in Guardianship cases is one of the most difficult defects for self-represented litigants to overcome. Adding this significant of an additional service requirement is not practical. Additionally, most of these litigants do not have the means to pay for all the additional pages that would need to be copied and/or mailed. For example, in a typical Guardianship case, service to the two parents and four grandparents would equate to an additional 78-pages to be copied. Thirteen additional pages would also add significant postage for mailing. Additionally, it seems unnecessary to require this to be served on a Guardianship of the Estate matter, as the Juvenile and other Nonparent Caregiver comparisons are not applicable.</p> <p>Page 1: Suggested edits – Caregivers who provide care for children involved in a court case</p> <ul style="list-style-type: none">• Foster parents or resource families: If it is not in a child’s best interest to continue living at home, the juvenile court may order the child placed out of the home and in the care and custody of the a child welfare agency. ...• Guardians: ... Relatives or nonrelatives are can be appointed as guardians ... <p>Caregivers who provide care for children who are not involved in a court case Guardianship and court-ordered foster care are not the only options if a child’s parents are unavailable or unable to care for their child. Families can make arrangements for the care and</p>	<p>online directory of court self-help centers.</p> <p>The committees do not recommend a change in response to this comment because service or delivery of this form is required by statute. Probate Code section 1511(a) requires that notice of the hearing on a petition to appoint a probate guardian include a copy of the new mandatory information form.</p> <p>The committees have deleted this subheading.</p> <p>The committees have extensively revised page one of this form. The committees have made the suggested changes where the applicable language remains.</p> <p>The committees have made this change.</p> <p>The committees have deleted this subheading.</p> <p>The committees have extensively revised page one of this form. The committees have made the suggested changes where the applicable language remains.</p>
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	<p>custody of a child without going to court. These arrangements are usually temporary.</p> <p>If parents determine decide that out-of-home care is needed for a their child and that child welfare services and supports could benefit their family, they can enter into a written Voluntary Placement Agreement with the county welfare department.</p> <p>This form only discusses only guardians <i>of the person</i>, who have legal ...</p> <p>... the probate court may appoint a guardian <i>of the estate</i> to manage and preserve the child's property for the child until the child reaches 18 years of age. ...</p> <p>Page 2: Suggested edits – Column 1: Change “non-related” to “nonrelative” (no hyphen) per, e.g., WIC § 361.4(a)(1). Column 3: Change “physician” to “doctor” or “health care providers.”</p> <p>If a child has special needs, a guardian must strive to meet those needs or and secure arrange for appropriate services. Some children may have physical or learning disabilities.</p> <p>Other children come from abusive homes or have been victims of abuse. Counseling and other services may be necessary to assist help a child such children who has special needs or has had unpleasant life experiences.</p> <p>The child's pParents can no longer make decisions for their child ...</p>	<p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p> <p>The committees have made this change.</p> <p>The committees have made this change with a modification.</p> <p>The committees have made this change with a modification.</p> <p>The committees have made this change.</p>
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	<p>Page 3: Suggested edits – Column 1: A CAA authorizes the caregiver to enroll the child in school and to consent to school-related medical care, such as a school physical exam.</p> <p>A CAA authorizes a relative caregiver to consent to a child’s medical and dental care and gives a relative caregiver limited authority over a child’s mental health care.</p> <p>Column 2: Foster parents must make sure the child participates takes part in social worker–authorized and court-ordered visits and phone calls with parents and others that are authorized by the social worker and/or ordered by the court.</p> <p>Column 3: However, if the child is 14 years of age or older, surgery ...</p> <p>Page 4: Suggested edits – Column 3: A separate legal process is required for such an involuntary commitment.</p> <p>Page 5: Suggested edits – Column 1: 1st par. (for consistency with 2nd par. and column 2): Caregivers cannot consent to a the child’s marriage ...</p> <p>A relative caregiver is ineligible for cannot receive foster care payments ...</p>	<p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p> <p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p> <p>The committees have made this change.</p> <p>The committees have made this change.</p> <p>The committees have made a substantially similar change.</p> <p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p>
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	<p>Column 3: A guardian may consent to a minor child’s enlistment in the armed services and/or to application for a driver’s license.</p> <p>The guardian is responsible for the day-to-day financial support of the child even though the parents are still obligated to must support the child financially.</p> <p>Page 6: Suggested edits – Column 1: Change “non-related” to “nonrelative” (no hyphen) per, e.g., WIC § 361.4(a)(1). A non-related nonrelative extended family member (NREFM) caregiver is not eligible to cannot receive CalWORKs or any foster care payments.</p> <p>Question: Under “Legal Liability,” in addition to quoting Civ. Code § 1714.1(a), should text be added to explain that a caregiver with a CAA or VPA does not have the legal liability that a parent or guardian has under this statute?</p> <p>Insert period: (Italics added.)</p> <p>Column 2: “... a foster parent is immune from liability ... while the child or nonminor dependent is placed in the home of the caregiver foster parent.”</p> <p>Column 3: Insert period: (Italics added.)</p> <p>The court may require the guardian to accept perform other</p>	<p>The committees have made this change.</p> <p>The committees do not recommend this change but have modified this sentence to simplify it.</p> <p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p> <p>The committees have removed column 1 of chart 1, which included the subject of the comment, from this form.</p> <p>The committees have made this change.</p> <p>The committees have removed this parenthetical from the form.</p> <p>The committees have made this change.</p>
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	<p>duties, ...</p> <p>... program, you will be expected to cooperate <i>comply</i> with all requests of the court visitor's requests. Also, a guardian may be required <i>have</i> to fill out and file status reports.</p> <p>Page 7: Suggested edits – Column 2: Child-Only California Work Opportunity and Responsibility to Kids Program (CalWORKs) is available <i>payments</i> for relatives. Payments are approximately one-half of the foster care basic rate paid to nonrelatives.</p> <p>Question: Is this text in the correct column (i.e., Probate Guardian)? Should it be in column 1? “California foster youth who are placed with a caregiver out of state are eligible for funds at the foster care rate in that state.”</p> <p>Column 3: Kinship Guardianship Assistance Payment Program (Kin-GAP) payments is are available to children who have lived with an approved relative guardian ...</p> <p>... payments, but you may still qualify for California Work Opportunity and Responsibility to Kids Program (CalWORKs) payments.</p> <p>Page 8: Suggested edits – Column 1: Financial assistance is Foster care payments are linked to full-scope Medi-Cal services for the child. Youth are eligible for <i>can receive</i> Former Foster Youth Medi-Cal up to age 26.</p>	<p>The committees have made the second suggested change.</p> <p>The committees have made this change with a minor modification.</p> <p>The committees have moved the text to column 1.</p> <p>The committees have made the suggested change.</p> <p>The committees have made the suggested change</p> <p>The committees do not recommend this change because the existing language better expresses the committees' intent.</p>
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	<p>Extended Foster Care (EFC) is available for youth who are in foster care placement when they turn 18. Nonminor dependents (NMDs) can receive ongoing case management and financial assistance EFC payments until they turn 21; they are eligible may qualify for transitional housing and independent living placements.</p> <p>Column 2: There is are no financial aid payments before the probate court orders ...</p> <p>If a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative) payments, the child is eligible for Medi-Cal, but after turning 18 the youth is cannot eligible for receive Former Foster Youth Medi-Cal.</p> <p>However, if a probate guardian receives CalWORKs (relative) or AFDC-FC (nonrelative) payments, the child will receive those funds ...</p> <p>Column 3: ... can continue to receive extended financial assistance payments until they turn 21 if they meet certain requirements participation criteria related to work, school, or activities designed to remove barriers to employment.</p> <p>Financial assistance is Payments are linked to full-scope Medi-Cal services for the child. Youth are eligible for can receive Former Foster Youth Medi-Cal up to age 26.</p> <p>Extended Foster Care (EFC) is available for youth who are in foster care placement when they turn 18. Nonminor dependents (NMDs) can receive ongoing case management and financial</p>	<p>The committees have made these changes with a modification.</p> <p>The committees have revised this sentence consistent with the suggestion.</p> <p>The committees do not recommend this change but have otherwise revised this sentence.</p> <p>The committees have made the suggested change.</p> <p>The committees have revised this sentence to clarify it, but have retained the additional information at the end.</p> <p>The committees have revised this sentence consistent with the comment.</p> <p>The committees have extensively revised this language to better convey the limited role of EFC in juvenile court guardianships.</p>
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	<p>assistance EFC payments until they turn 21; they are eligible may qualify for transitional housing and independent living placements.</p> <p>Page 9: Suggested edits – Columns 1 and 3: Payments will vary according to the kind of placement.</p> <p>Independent Living Program funding is available for current and former foster youth up to age 21, including youth who if they were in foster care on or after age 16, youth who they entered into a Kin-GAP guardianship after age 16, and youth who or they entered into a nonrelated legal guardianship through juvenile court after age 8. This funding can teach youth can learn household and money management and receive help youth with educational, housing, and employment assistance.</p> <p>Chafee Education and Training Vouchers are grants for postsecondary education available for youth who were in foster care on or after age 16. These are grants for postsecondary education. Vouchers are up to \$5,000 per year.</p> <p>Column 1: The Emergency Child Care Bridge program provides childcare vouchers and navigation support to caregivers of children in foster care as well as and to foster youth who are themselves parents have children of their own. Eligibility depends on available funding and county policy.</p> <p>Column 2: until the age of 18. and ffunds may be extended to age 19 if the</p>	<p>The committees have reorganized the discussion of payments in this section consistent with this comment.</p> <p>The committees have revised these paragraphs in the spirit of this comment.</p> <p>The committees have made a change similar to the suggestion.</p> <p>The committees have made this change.</p> <p>The committees have made this change with a minor</p>
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	<p>youth is completing high school.</p> <p>Column 3: The Emergency Child Care Bridge program benefits are not available after a ...</p> <p>Page 10: Suggested edits – Columns 1 and 3: The amounts of these payments are determined set by the county.</p> <p>Dual Agency Rate for children who are in foster care and also eligible qualify for Regional Center services through the Regional Center.</p> <p>Whole Family Foster Home and Infant Supplement payments are available to support youth living in foster care with their nondependent children. This rate is 900 per month.</p> <p>An Expectant Parent Payment is available to of \$ 2,700 supports a youth in foster care during the her third trimester of pregnancy. This payment is \$2,700 for the last three months of pregnancy.</p> <p>Column 3: Some counties pay a Clothing Allowance is available for foster children in some counties. Payment amounts vary varies by county.</p> <p>Page 11: Suggested edits – Column 1: Some counties pay a Clothing Allowance is available for foster children in some counties. Payment amounts vary varies</p>	<p>modification.</p> <p>The committees have made this change.</p> <p>The committees have made these changes.</p> <p>The committees have made the suggested change.</p> <p>The committees do not recommend this change. The availability of the payments is as important as their purpose.</p> <p>The committees have revised this discussion in a slightly different way.</p> <p>The committees have revised column 3 to refer to column 1 to avoid repetition.</p> <p>The committees have made a similar change.</p>
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	<p>by county.</p> <p>Columns 1 and 3: This rate is set by the state based on two round trips per day from between the foster home placement to and the school.</p> <p>Page 12: Suggested edits – Column 2: Row for Court Oversight – The court can require order the guardian to allow visitation ...</p> <p>The court may require order the guardian to submit an annual status report ...</p> <p>(See form GC-205-INFO, <i>Information on Guardianship of the Person</i> Information.)</p> <p>Column 3: Row for Court Oversight – In many cases after the guardianship is granted, especially if the guardian is related to the child, the court will dismiss dependency or juvenile justice jurisdiction and will not hold any more regularly scheduled court hearings. Even then, the juvenile court retains even though it keeps authority over the guardianship. ...</p> <p>Any request to change the court’s orders ... must be filed in the juvenile court using form JV-180, <i>Request to Change Court Order</i>.</p> <p>Page 13: Suggested edits – Column 2: The guardian, the a parent, the child, or, if the child is an Indian child, an Indian custodian or the child’s tribe can file a request with the probate court to terminate the guardianship.</p>	<p>The committees have made the suggested change with a minor modification.</p> <p>The committees have made this change.</p> <p>The committees have made this change.</p> <p>The committees have made this change.</p> <p>The committees have revised this paragraph substantially, and the comment is no longer applicable.</p> <p>The committees have made this change.</p> <p>The committees have made this change.</p>
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	<p>Columns 2 and 3: The guardianship automatically terminates when the child turns 18 or if the child dies before reaching this age 18; if the child is emancipated ...</p> <p>A juvenile court guardianship does not terminate parental rights; it suspends them. <i>[Replace comma with semicolon.]</i></p> <p>Column 3: If the juvenile dependency or delinquency juvenile justice case is dismissed after guardianship is granted, continued involvement by the social worker or probation officer involvement will depend on any services and financial supports the child continues to receive.</p> <p>The court can order the guardianship terminated (ended). A social worker or probation officer, the guardian, a parent, or the child, or, if the child is an Indian child, an Indian custodian or the child's tribe can file a request with the juvenile court to terminate the guardianship.</p> <p>In the row for "Terminating Parental Rights," it may be helpful to provide some reference to the fact that there are different procedures for children who fall under the Indian Child Welfare Act. For example, it may suffice to simply add, "If the child is an Indian child, the Indian Child Welfare Act requires different procedures."</p>	<p>The committees have substantially revised this section in a way that addresses the suggestions made in this comment.</p> <p>The committees have made this change.</p> <p>The committees have revised this section consistent with this comment.</p> <p>The committees have made this change.</p> <p>The committees have made this change.</p>
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JV-210 Application to Commence Juvenile Court Proceedings and Decision of Social Worker		
Commenter	Comment	Committee Response
Advokids by Lauren Montana, Supervising Attorney	No Comments. We like this form! Clear and well organized. Helpful revisions.	No further response required.
Alliance for Children’s Rights et al. by Sabrina Forte, Director of Policy and Impact Litigation	Although the creation of a separate section for the probate court’s referral is helpful, we recommend adding instructions so that applicants understand that they must complete Part II (individual applicants) or Part III (probate court) but not both. We suggest adding an instruction before Part II that says, “Individual applicants: Complete Part II. Probate Court applicants: Complete Part III.” Alternatively, we recommend revising the heading of Part II to say “Part II. Applicant’s Affidavit (Non-Probate Court Referral).”	The committees agree and have added instructions indicating that part I should be completed by all users, part II is for use by individual applicants and part III is only for use by the probate court.
California Tribal Families Coalition by Mica Llerandi, Senior Attorney, Legal and Program Services	<p>[Part 1. Child’s Information; #1.g. Other caregiver]</p> <p>[Part 2. The child described in item 1] In this section, we recommend adding that an “other caregiver” might be an Indian custodian and a box option to check if a child lived or lives on an Indian reservation.</p>	<p>The committees have added language to item 1g to indicate that “other caregiver” includes an Indian custodian.</p> <p>The committees added language to item 1g to indicate that “other caregiver” might be an Indian custodian in response to the previous comment, and do not recommend adding that information to item 2. Neither do the committees recommend adding an option to indicate whether a child lives on tribal land. Items 2a and 2b are the grounds under Welfare and Institutions Code section 329(a) for establishing that the county in which the application is made is proper. That a child lives on tribal land is not among the statutory grounds and is not relevant to choosing the proper county in which to file the application.</p>

SPR22-17

Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

Oneatha Herne, Probate Court Investigator	While the legislation expanded the process for probate court to use W&I 329 and 331, information about the ability of any person to refer a child who is or may be at risk of abuse or neglect as described in W&I 300 by way of W&I 329 and 331 is not widely known. This information and the availability of applicable forms should be included. Information only on the probate court gives the impression that this process is only available after the filing of a probate guardianship petition and only can be used by the probate court.	The committees agree that this information is important and have added information about the application processes under Welfare and Institutions Code sections 329 and 331 to page 1 of form GC-207-INFO/JV-352-INFO.
Superior Court of San Diego County by Mike Roddy, Executive Officer	Item 7. Consider adding a space for not only the Department _____, but the assigned Judicial Officer. Item 9.c. Perhaps this could read: “A copy of the report required pursuant to Probate Code section 1513...” Such a change would take into consideration counties who delegate agencies other than a Court Investigator to conduct these investigations.	The committees do not recommend this change. The signature line for the judicial officer at the end of Part III is sufficient to identify the judicial officer. The committees do not recommend this change. The existing language referring to “the investigator’s report” is sufficiently generic to accommodate any investigator appointed by the court.

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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

JV-213 Probate Court Request for Juvenile Court Review of Decision not to Commence Proceedings		
Commenter	Comment	Committee Response
Advokids by Lauren Montana, Supervising Attorney	<p>Combining JV212 & JV213 should be reconsidered. JV210 looks great, very clear. If it is not too confusing to have a separate probate section on the JV210, why is it too confusing to have it on the JV212?</p> <p>Specific recommendation is to reconsider revising JV212 to accommodate probate court’s request for juvenile court review of the agency’s decision not to file a dependency petition by updating the self-represented individuals section with the clearer language as is stated on the proposed JV-213</p> <p>Adding the probate court section as it is drafted on the proposed JV213. Add “FOR PROBATE COURT ONLY”</p> <p>Update the Juvenile Court section for findings and orders to</p>	<p>The committees do not recommend incorporating the probate court request for juvenile court review into form JV-212. A separate form for the probate court to use is preferable, in part because form JV-212 is designed for use by an individual applicant external to the superior court. Form JV-213, on the other hand, is intended primarily for internal communication between two departments of the same superior court. It refers to some materials that would not be available to a private applicant, including a social worker’s report that must be filed directly with the court and maintained confidentially. The committees are concerned, therefore, that, even clearly marked, inserting a section for internal court use to form JV-212 would mislead self-represented applicants. (Form JV-210, on the other hand, is submitted to the child welfare agency by a party external to the agency, whether an individual or the probate court.)</p> <p>Updating the sections for use by self-represented individuals and the juvenile court on form JV-212 is beyond the scope of this proposal. The committees will consider revising this form in a future cycle.</p> <p>No further response required.</p> <p>The committees do not recommend the suggested</p>

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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

	reflect language as drafted on the proposed JV213 Alternatively, if decision is to keep 212 and 213 as separate forms: REVISE JV212 with the same updated language as JV213	change. Revision of these sections of the form is beyond the scope of this proposal. The committees will consider revising the form in a future cycle.
Alliance for Children’s Rights et al. by Sabrina Forte, Director of Policy and Impact Litigation	We appreciate the clarity of this new form. We recommend incorporating the applicable juvenile court findings and orders into the existing JV-212 form, as these findings and orders make clear that juvenile court judges may set these matters for argument and/or order the social worker to file a petition by a date certain.	The committees do not recommend revising form JV-212 at this time. Revision of these sections of the form is beyond the scope of this proposal. The committees will consider revising the form in a future cycle.
Superior Court of Orange County by Vivian Tran, Operations Analyst	This proposed form indicates juvenile court may set the matter for argument (item 2 under the Juvenile Court section of the form). Recommend including the code that gives juvenile court authority to set the matter for argument on the bottom of the form for reference. Clarify which parties will provide argument at the hearing.	The committees have revised the form to indicate that the court may set the matter for hearing, not merely argument. Setting the matter for a hearing, including an evidentiary hearing or argument, is within the court’s inherent authority to resolve matters before it, as confirmed in <i>In re M.C.</i> (2011) 199 Cal.App.4th 784, 813–814 & fn. 21. See also the response to the Orange County Bar Association’s comment, above. Following an application for juvenile court review under Welfare and Institutions Code section 331, the court has discretion to hear argument and receive evidence from any interested person, as long as the hearing comports with the requirements of due process.
Superior Court of San Diego County by Mike Roddy, Executive Officer	1. Consider adding a space for not only the Department ____, but the assigned Judicial Officer.	The committees do not recommend this change. The signature line for the judicial officer at the end of the first part of the form is sufficient to identify the probate court judicial officer.

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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

JV-350-INFO Information on Juvenile Court Guardianship		
Commenter	Comment	Committee Response
<p>Advokids by Lauren Montana, Supervising Attorney</p>	<p>Item 1: Add “for the duration of the guardianship” to the last sentence at the end of the paragraph</p> <p>Item 3: Explain/spell out what last sentence means.</p> <p>Item 4: Spell out “by using the JV290 Caregiver Information Form” by name</p> <p>Item 6: Note the mechanism used by name, “JV285 Caregiver Information Form”</p>	<p>The committees agree with the substance of this suggestion and have modified the form to reflect it.</p> <p>The committees have removed the last sentence from item 3.</p> <p>The committees agree and have added a reference to form JV-290 to item 4.</p> <p>The committees agree and have added a reference to form JV-285 to item 6.</p>
<p>Alliance for Children’s Rights et al. by Sabrina Forte, Director of Policy and Impact Litigation</p>	<p>We appreciate that this form provides comprehensive information about juvenile court guardianships in plain language and makes suggestions for caregivers to advocate to participate in the permanency planning process. We recommend that this form include the information about child care options discussed on pp. 3-5 of this document.</p> <p>We also recommend the following minor revisions for clarity and accuracy: Page: 34; Section: 4 (Is a foster parent the same as a guardian?) <i>Comment:</i> A caregiver can be excluded from a hearing if a party objects to their presence. <i>Proposed Change:</i> Replace “and go to the hearings” with “and, unless the parent or child objects, go to the hearings.”</p> <p>Page: 34; Section: 5 (How is a guardian different from a foster parent?)</p>	<p>The committees agree with the suggestion and have added information about the options for subsidized childcare assistance to the last page of the form.</p> <p>The committees do not recommend the suggested change but have modified the form to indicate that the caregiver is entitled to notice of the child’s <i>review or permanency</i> hearings and to attend those hearings. (See Welf. & Inst. Code, §§ 291(a)(10), 293(a)(8) & (f), 294(a)(10), 295(a)(8); Cal. Rules of Court, rule 5.534(k).)</p>

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	<p><i>Comment:</i> The last sentence (“A guardian has more rights and duties...”) is dependent on the circumstances. Guardians can keep the case open if they require additional supports and services. <i>Proposed Change:</i> Delete this sentence.</p> <p>Page: 35; Section: 7 (Will the child be returned to the parent?) <i>Comment:</i> Reunification services are provided to the parent. <i>Proposed Change:</i> Replace “the social worker or probation officer works with the family” with “the social worker or probation officer works with the parent.”</p> <p>Page: 35; Section: 8 (Is guardianship a permanent plan?) <i>Comment:</i> The reference to adoption as the preferred permanent plan “because it is more stable and secure” is not accurate. The law allows for relative caregivers to choose guardianship over adoption. <i>Proposed Change:</i> Delete the last three sentences of this section (beginning with “If the child cannot return home”).</p>	<p>The committees do not recommend the suggested change. A guardian <i>may</i> receive fewer services and supports than a foster parent. In addition, the decision to keep the dependency case open is within the discretion of the court, subject to the requirement to terminate dependency jurisdiction for funding purposes when it appoints an approved relative guardian. The guardian cannot require the court to keep the case open.</p> <p>The committees do not recommend the suggested change. When a child is removed from a parent’s custody, “the juvenile court shall order the social worker to provide child welfare services <i>to the child and the child’s mother and statutorily presumed father or guardians,</i>” that is, to the family. (Welf. & Inst. Code, § 361.5(a), emphasis added.)</p> <p>The committees do not recommend the suggested change. Under Welfare and Institutions Code section 366.26(b), termination of parental rights and placement for adoption is the preferred permanent plan. Under section 366.26(c)(1), if the court finds that the child is likely to be adopted, the court <i>must</i> terminate parental rights and order the child placed for adoption. Section 366.26(c)(1)(A) gives the <i>court</i> authority not to make those orders if the court finds that (1) the child is living with a relative who is unwilling or unable to adopt the child but is “willing and capable of providing the child with a stable and permanent environment through legal guardianship, <i>and</i> [2] the removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child.” The relative caregiver’s preference for guardianship over adoption is</p>
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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

	<p>Page: 35; Section: 9 (How can I become a guardian?) <i>Comment:</i> This section does not capture the context in which caregivers become guardians in juvenile court. <i>Proposed Change:</i> Clarify that the child needs to live with a caregiver before guardianship is granted.</p> <p>Page: 36; Section: 10 (What are the steps to becoming a guardian?) <i>Comment:</i> Include that the caregiver needs to satisfy the requirements of Resource Family Approval. <i>Proposed Change:</i> Add: “Your home needs to satisfy the requirements of Resource Family Approval” with a link to information about RFA.</p>	<p>not sufficient in itself to warrant the court’s appointment of the relative as guardian.</p> <p>The committees do not recommend the suggested change. Although it is a best practice for the child to live with the guardian before appointment, the statutes do not establish a clear residence requirement. Welfare and Institutions Code section 366.26(b)(3) does provide for appointment as guardian of a relative “with whom the child is currently residing,” but section 366.26(b)(5) authorizes appointment of a nonrelative as guardian without a residence requirement. There is neither express authorization nor prohibition of appointing a relative guardian with whom the child is <i>not</i> living. The reason for this absence is unclear. It is possible that the Legislature intended to require a permanent plan with a relative with whom the child was not living to begin as a placement with a fit and willing relative, under section 366.26(b)(6), with a goal of appointing the relative as guardian as soon as they become eligible for Kin-GAP. Otherwise, the preference for a nonrelative over a relative seems anomalous.</p> <p>The committees do not recommend the suggested change but have added general language about home approval to section 10. The committees have chosen to proceed cautiously in articulating specific approval requirements in part because the law is not completely clear. Although Welfare and Institutions Code section 16519.5 indicates that approval as a resource family is <i>sufficient</i> for appointment of an adult as a legal guardian, it does not provide that such approval is <i>necessary</i>. And</p>
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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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	<p>Page: 35; Section: 11 (How will the court decide whether to appoint me as a guardian?) <i>Comment:</i> Whether the child can be adopted is not always a consideration. <i>Proposed Change:</i> Add to the first bullet point, “unless the prospective guardian is a relative.”</p> <p>Page: 36; Section: 14 (When will the guardianship end?) <i>Comment:</i> A child who has a closed juvenile court case and turns 18 in the home of a juvenile court guardian is not eligible for extended foster care, but they could be eligible for benefits past age 18 through Kin-GAP (relative guardians) or state AFDC-FC funding (non-relative guardians). A narrow subset of children in guardianships who become eligible for EFC because either the guardian asks the court to terminate the guardianship before the child turns 18, or the guardian dies or stops</p>	<p>though RFA approval is a condition of a relative guardian’s eligibility to receive Kin-GAP payments, it is not clear that such approval is a condition of the relative’s appointment as guardian. Moreover, Welfare and Institutions Code sections 361.5(g)(1), 366.21(i)(1), 366.22(c)(1), and 366.25(b)(1) do not require the mandatory assessment conducted when the court sets a section 366.26 hearing to discuss whether a proposed guardian or prospective adoptive parent has been approved as a resource family. These sections do, however, require the assessment of a proposed <i>relative</i> guardian also to consider “all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.” Section 361.4(c) requires criminal record clearance of every adult in the home under section 16519.5(d)(2)(A), but sections 361.3 and 361.4 do not otherwise mention the RFA statute or process.</p> <p>The committees do not recommend the suggested change. See response to comment above regarding section 8.</p> <p>The committees agree with the comment and have modified the language in item 14 to replace the reference to EFC with state AFDC-FC.</p>
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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

	<p>providing support after the child turns 18. <i>Proposed Change:</i> Modify the Note at the end of the section to say, “If the child keeps living with you after turning 18, you can get financial help through Kin-GAP or state AFDC-FC up to the child’s 21st birthday if the child meets the program requirements.” OR omit this paragraph since there is a section on support after age 18 elsewhere on this page.</p> <p>Page: 36; Section: 15 (Can the court replace me as a guardian?) <i>Comment:</i> It is important to explain that the decision to replace the guardian would occur after a hearing in which parties have an opportunity to be heard as to the best interest of the child. <i>Proposed Change:</i> Add language to explain that the court will rely on information, testimony, and evidence from the parties before making a decision to replace a guardian.</p> <p>Page: 36; Section: 16 (How is an adoption different from guardianship?) <i>Comment:</i> Under “Court Oversight,” it is more accurate to say that the court retains jurisdiction over the guardianship. <i>Proposed Change:</i> Replace “controls” with “retains jurisdiction over”</p> <p>Page: 37; Section: 18 (Arrange for the child’s health care” <i>Comment:</i> Children of all ages (not only older and more mature children) are allowed to make certain reproductive health care decisions, including abortions. <i>Proposed Change:</i> Simplify the second paragraph to state: “In certain situations, the law also allows children to make decision on their own without your approval, including:”</p> <p>Page: 38; Section: If the child is related to you <i>Comment:</i> Some clarification is needed on the rules for Kin-</p>	<p>The committees have modified this item to indicate that the judge will decide after a hearing whether to replace a guardian.</p> <p>The committees have made the suggested change with a minor modification.</p> <p>The committees agree and have made the suggested change with minor modifications.</p> <p>The committees have made the suggested change with</p>
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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

	<p>GAP. Children are eligible for Kin-GAP if they have resided in the relative’s home for six months AND the relative has resource family approval, but the six months starts at the time of placement, not at the time of approval. <i>Proposed Change:</i> Rephrase as follows: “Kin-GAP program: If the child has lived with you for at least six months, you have obtained resource family approval,…”</p> <p>We also recommend including all of the linked programs described in this section in the Medi-Cal paragraph (not Kin-GAP alone). <i>Rephrase as follows:</i> “Health care: Children who qualify for Kin-GAP, ARC, or CalWORKs get health care through Medi-Cal.”</p>	<p>minor modifications. The law is not entirely straightforward on this point, however. For example, Welfare and Institutions Code section 360(a) implies that Kin-GAP eligibility depends on the court appointing “an approved relative caregiver” as the child’s guardian and “the child having “been in the care of that <u>approved</u> relative for a period of six consecutive months.” Section 366.3(a)(3) requires the court to terminate dependency jurisdiction for Kin-GAP purposes if “a relative or [NREFM] of the child is appointed the legal guardian of the child <u>and the guardian’s home has been approved pursuant to Section 16519.5 for at least six months.</u>” These provisions indicate that both residence and RFA approval must have lasted for six months.</p> <p>The committees have made the suggested change with minor modifications.</p>
<p>Oneatha Herne, Probate Court Investigator Sacramento County</p>	<p>Pg 1 The form is to explain the difference between resource family or foster parent and guardian, and adoptive parent. There is no explanation of what a resource family is. Applicable information on resource families should be incorporated.</p> <p>Page 1 Suggestion: Add question 4 and 5: What is a resource family? Is a resource family the same as a guardian?</p> <p>Page 1</p>	<p>The committees have revised page 1 of the form to explain that a resource (family) parent is a foster parent who is approved through a specific approval process.</p> <p>See previous response.</p>

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Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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	<p>Move current #6 before current #5 and add Certain relatives are entitled to notice and to attend court hearings, if appropriate.</p> <p>Page 1 Current #5 – Court Supervision - last entry Suggestion: Add Continued contact by the social worker or probation officer depends on services and financial report the child receives. (See item #13 for more details)</p> <p>Page 1 Duties – last sentence Suggestion: Add: ... fewer services and less financial and personal support. (See items #17-27 for more details)</p> <p>Pg 2 Item 9 information on how to contact social worker, probation officer or attend hearing would be helpful.</p> <p>Page 2 Item 10c Suggestion: Add: after 1st sentence - The parents and child will have appointed counsel.</p>	<p>The committees do not recommend changing the order of items 5 and 6 but have added language to item 6 to clarify that a relative is entitled to submit information to the court in writing and may ask the court to allow them to attend hearings.</p> <p>The committees have modified item 5 to indicate that a guardian who receives services and supports may have some contact with a social worker.</p> <p>The committees have revised item 5 to add a reference to financial support, though recent changes to the law seem to make it less likely that a juvenile court guardian will receive less financial support than a foster/resource family parent. See SB 354 (Stats. 2021, ch. 687.)</p> <p>The committees do not recommend this change. Items 5 and 6 discuss how caregivers and relatives can provide information to the court and attend hearings. A statewide form cannot give contact information for specific social workers or probation officers in specific counties. Each county should provide local contact information.</p> <p>The committees do not recommend the suggested change. In almost all dependency cases, appointed counsel will have represented the child and parents since the beginning of the case. Noting it here might imply otherwise. Chart 3 on form GC-207-INFO/JV-352-INFO provides information about appointed counsel.</p>
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SPR22-17

Probate Guardianship and Juvenile Dependency (Adopt form GC-207-INFO/JV-352-INFO; approve forms GC-206-INFO and JV-213; revise forms GC-205-INFO, JV-210, and JV-350-INFO)

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

Orange County Bar Association by Daniel Robinson, President	(4) Form 350-Info is deficient in the same manner discussed above for Form GC-205-Info.	Form JV-350-INFO is intended to focus on juvenile court guardianships. As noted above, form GC-207-INFO/JV-352-INFO is the primary form in the proposal. That form, as mandated by Government Code section 68511.1, describes the nature of a guardianship and compares the rights, duties, services, and supports for probate guardians, juvenile court guardians, and juvenile court child welfare caregivers. In response to comments received, the committees have added information about several topics, including appointment of counsel and investigations, to form GC-207-INFO/JV-352-INFO in response to public comments, and have updated form JV-350-INFO to avoid inconsistencies.
Superior Court of San Diego County by Mike Roddy, Executive Officer	<p>* The commenter identified these comments as relating to form JV-210. They are included here because they apply to form JV-350-INFO.</p> <p>Item 12. Buy a certified copy of the form from the clerk, make copies of that it, and keep the certified copy in a safe place.</p> <p>Item 13. If you don't do what's in the case plan says, they might ask the court might be asked to order you to do it.</p> <p>Item 24. Pay for harm caused by the child's driving</p> <p>Item 25. Pay for harm caused by the child's other acts ... There is usually a limit about on how much you may need to pay.</p>	<p>The committees agree and have made the suggested change to item 12 on the form.</p> <p>The committees have made a different clarifying change to item 13 on the form.</p> <p>The committees agree and have made the suggested change.</p> <p>The committees have made a different clarifying change to item 25 on the form.</p>

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Rules and Forms: Guardianship Objection

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Approve form GC-215

Committee or other entity submitting the proposal:
Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Develop and recommend approval of a Judicial Council form for a parent or other interested person to use to object to a petition for appointment of a guardian. This form would promote due process and access to the courts by providing a mechanism for a parent or other interested person to challenge the proposed change of child custody to a nonparent.

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

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

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

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

This proposal:

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

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No. 22-168

For business meeting on September 20, 2022

Title	Agenda Item Type
Rules and Forms: Guardianship Objection	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Approve form GC-215	January 1, 2023
Recommended by	Date of Report
Probate and Mental Health Advisory Committee	July 31, 2022
Hon. Jayne Chong-Soon Lee, Chair	Contact
	Corby Sturges, 415-865-4507 corby.sturges@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee recommends approving one form for optional use by parents, relatives, and other interested persons to object to a petition to appoint a probate guardian for a minor child. In guardianship proceedings, most parties and interested persons are self-represented. The petitions, forms GC-210 and GC-210(P), provide a framework for petitioners to specify their requests and allegations in appropriate categories. There is currently no Judicial Council form for objecting to a guardianship petition. Courts and self-help centers have indicated that the lack of a simple, standard form places objectors at a disadvantage and often leaves courts unable to discern the bases for objections. The proposed form is intended to address these concerns.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2023, approve *Objection to Petition for Appointment of Guardian* (form GC-215) for optional use to file or structure an objection to a petition for appointment of a guardian in probate court.

The proposed new form is attached at pages 5–6.

Relevant Previous Council Action

The Judicial Council has never approved a guardianship objection form.

Analysis/Rationale

The vast majority of probate guardianship petitions in California request appointment of a guardian of the child's person, and not of the estate. Most petitioners and objectors in those proceedings are self-represented. The existing petition forms, *Petition for Appointment of Guardian of Minor* (form GC-210) and *Petition for Appointment of Guardian of the Person* (form GC-210(P)), provide alternative mandatory vehicles for petitioners to clarify their requests and allegations, separating them into appropriate categories. These forms help petitioners to articulate the issues the court needs to address; they also help the court to identify any issues of fact and determine whether it needs more evidence to resolve those issues.

No corresponding Judicial Council form exists for use by persons who wish to object to a petition for appointment of a guardian. Courts and self-help centers across the state have requested the development of an objection form because the lack of a form leaves objectors without guidance on how to focus and structure their objections. This lack of focus and structure often leaves courts, in turn, unable to discern the nature of the objections or the bases for them.

Proposed form GC-215 addresses these issues for an objector who chooses to use it. First, it requires an objector to identify the petition to which their objection applies by providing the name of the petitioner. Second, the form requires an objector to specify the children who fall within the scope of the objection. Frequently, a petition for appointment of a guardian of the person will include children who have different fathers. A father or a paternal relative of fewer than all the children subject to the petition may wish to object to appointment of a guardian of only those children to whom the objector is related. The recommended form offers that option. Third, the form requires an objector to specify their relationship with, or connection to, the child or family.

Fourth, the form allows an objector to contest the establishment of a guardianship over the child or children covered by the objection. In most circumstances, an objection focuses on whether the child needs a guardianship at all. This element of the form focuses the objection on this issue and requires them to explain why they think a guardianship is not needed.

Fifth, the form allows an objector to contest the appointment of the person proposed as guardian by the petition. An objector may agree that a guardianship is needed because the child's parent cannot properly care for the child, but think that appointment of a different person as guardian would be in the child's best interest. This element of the form focuses the objection on the reasons the objector thinks the proposed guardian should not be appointed.¹

¹ An objector would need to file a separate petition to ask the court to appoint a different person as guardian.

Finally, the form allows an objector to contest other requests made in the petition. These might include requests for specific visitation orders or for independent powers.

Policy implications

Recommended form GC-215 is intended to improve the quality of justice and service to the public by providing a standard mechanism for a child's parents, other relatives, and interested persons to object to a petition for appointment of a guardian for the child. Use of the form to present competing viewpoints will enable the court to make a more accurate determination of the child's best interest. No policy implications contributed to controversy or intense debate in the committee.

Comments

The proposal circulated for comment in the spring 2022 invitation-to-comment cycle. Four comments were received: two from superior courts, one from a county bar association, and one from a private individual. The Superior Court of Los Angeles County agreed with the proposal. The Superior Court of San Diego County, the Orange County Bar Association, and the individual agreed and suggested modifications.

The bar association suggested providing expanded instructions for the use of the form. The committee recommends modifying the form in one of the ways suggested. The committee has modified the instructions for items 4, 5, and 6, which provide an opportunity to specify objections and give reasons for those objections, to clarify that the objector need complete each of these items only if their objection falls in the category covered by the item. The committee does not recommend adding a separate instruction form to accompany form GC-215 or adding instructions to the form itself. The committee has made the form as simple as possible. Adding information or instructions beyond those discussed above risks distracting or confusing an objector. If the council concurrently approves forms GC-205-INFO and GC-206-INFO at its September 2022 meeting, as recommended by this committee and the Family and Juvenile Law Advisory Committee, those forms will provide enough information to allow a person to make informed objections to the appointment of a guardian.

The San Diego court suggested adding a proof of service to the form. The committee does not recommend that addition. There is no requirement in the Probate Code for service of an objection. An objector is typically not a party to a guardianship proceeding until they appear and object. Probate Code section 1043 permits an interested person to choose to appear and object, without prior notice, in writing at or before a hearing or orally at the hearing. A service requirement seems inconsistent with this permission.

A chart of comments is attached at pages 7–10.

Alternatives considered

The committee considered taking no action, but concluded that the form would both assist self-represented objectors to clarify their objections to the requested guardianship and help courts to identify and determine contested issues and make informed decisions about the best interests of

children. The committee also considered recommending that the council adopt the form for mandatory use, but determined that a mandatory form would be inconsistent with the permission to appear and object orally at a hearing on a petition in Probate Code section 1043.

Fiscal and Operational Impacts

The proposed form would impose indeterminate costs on the courts attendant to updating case management systems, changing operating procedures, and training. It is possible that the form, by providing a framework for objecting to a guardianship petition, could lead to marginal cost savings by reducing the length of hearings and the need for continuances.

Attachments and Links

1. Form GC-215, at pages 5–6
2. Chart of comments, at pages 7–10

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name):	CASE NUMBER:
OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN	HEARING DATE: DEPT.: TIME:

1. I (name): _____ object to the petition for appointment of a guardian filed by
 (name of petitioner): _____

2. My objection concerns the following child or children (give full name and date of birth for each):

- a. Child (name): _____ (date of birth): _____
- b. Child (name): _____ (date of birth): _____
- If there are more children, identify them on a separate piece of paper, attach it to this form, and label it as Attachment 2.

3. My relationship to the child or children named in item 2 is (tell the court about your connection with the child, children, or family):

If you need more space, use a separate piece of paper, attach it to this form, and label it as Attachment 3.

4. I object to a guardianship of the child or children named in item 2 because (if you think the court should not appoint a guardian, tell the court why):

If you need more space, use a separate piece of paper, attach it to this form, and label it as Attachment 4.

5. I object to the person the petitioner has asked the court to appoint as guardian because (if you think that person should not be the guardian, tell the court why):

If you need more space, use a separate piece of paper, attach it to this form, and label it as Attachment 5.

GUARDIANSHIP OF <i>(name)</i> :	CASE NUMBER:
---------------------------------	--------------

6. I object to other requests in the petition because *(if you object to other requests in the petition, tell the court which specific requests you object to and why you object to each one)*:

If you need more space, use a separate piece of paper, attach it to this form, and label it as Attachment 6.

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF ATTORNEY)

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

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF OBJECTOR)

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF OBJECTOR)

Names and signatures of additional objectors follow last attachment.

SPR22-18

Rules and Forms: Guardianship Objection (approve form GC-215)

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

	Commenter	Position	Comment	Committee Response
1.	Daniel Walnut Park (Los Angeles County)	AM	There are no Judicial Council forms or court procedure to challenge the legality of individuals detained pursuant to [Welfare and Institutions Code] § 5150 or on a subsequent 5150 hold by certification and provision on how to proceed in certain circumstances when the medical staff neglect to disclose to a patient of statutory & constitutional rights including due process rights which result in the patient attempting to petition for judicial review when the only opportunity available is when they are a patient during his detention period.	The committee appreciates the comment. It is, however, beyond the scope of this proposal, which is limited to probate guardianship proceedings.
2.	Orange County Bar Association by Daniel S. Robinson, President Newport Beach	AM	<p>The OCBA agrees that the proposal appropriately addresses the stated purpose provided the following modifications are adopted:</p> <p>(1) Form GC-215 “Objection to Petition for Appointment of Guardian” should be modified to explain and provide instructions regarding the process when an objector wishes to ask the court to appoint a different person as guardian, as noted in footnote 1 of the Invitation to Comment discussion.</p> <p>(2) The form should have accompanying instructions and/or an Information form accompanying it since it will be used primarily by self-represented persons.</p>	<p>The committee appreciates these comments.</p> <p>The committee considered adding instructions regarding the petition process to its recommendation but determined that these instructions would distract users from the purpose of the form. Forms GC-205-INFO and GC-206-INFO, recommended by this committee and the Family and Juvenile Law Advisory Committee for council approval, effective January 1, 2023, will, if approved, provide extensive information on the probate guardianship process.</p> <p>The committee does not recommend the development of an instruction form. The committee believes the addition of the parenthetical instructions suggested in comment (3), updated information on the guardianship pages of the California Courts Online Self-Help</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-18

Rules and Forms: Guardianship Objection (approve form GC-215)

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

	Commenter	Position	Comment	Committee Response
			<p>(3) The purpose of proposed form GC-215 is to provide a means whereby persons objecting to a guardianship, likely to be self-represented, could frame and focus their objection/s. While it is understood that items 4, 5, and 6 each have their own checkboxes, this may not be enough distinction to signal that all of these issues do not need to be included or addressed in order to make an objection. Accordingly, it is suggested the instructions, in parentheses and following each of these items, be modified as follows: at item 4 “...(if you think the court should not appoint a guardian, tell the court why);” at item 5 “...(if you think the court should not appoint that person to be the guardian, tell the court why);” and at item 6 “...(if you object to other requests, tell the court which request or requests you object and why);”.</p> <p>(4) The form should be modified to include “objections” to appointment of a conservator as we are unaware of such form with instructions.</p>	<p>Center, and forms GC-205-INFO and GC-206-INFO, if approved, will give sufficient guidance to an objector.</p> <p>The committee agrees with the suggestion and has modified the proposed form accordingly.</p> <p>The committee appreciates the comment. It is, however, beyond the scope of this proposal, which is limited to probate guardianship proceedings.</p>
3.	Superior Court of Los Angeles County by Bryan Borys	A	More than 3 months will be required to implement.	The committee appreciates this comment. No further response is required.
4.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p><i>Does the proposal appropriately address the stated purpose? Yes.</i></p> <p><i>Would the proposal provide cost savings? If so, please quantify. No.</i></p>	<p>The committee appreciates the comment. No further response is required.</p> <p>No further response is required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-18

Rules and Forms: Guardianship Objection (approve form GC-215)

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

	Commenter	Position	Comment	Committee Response
			<p><i>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?</i></p> <p>Examiners would have a clearer understanding of how to reflect objections in probate notes. Changes to case management system would be required in accepting the new form.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</i></p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>It appears this proposal would work similarly among courts of all sizes.</p> <p><i>Other Comments:</i></p> <p>Our court currently has a local form for the purpose of generically objecting to any petition filed in Probate. The one item lacking in this form is incorporation of a proof of service section as an additional page. We find including this in forms that are primarily used by self-represented litigants helps to prompt them that service is required.</p>	<p>No further response is required.</p> <p>No further response is required.</p> <p>No further response is required.</p> <p>The committee does not recommend adding a proof of service to the proposed form because service is not required in all instances. Under Probate Code section 1043, an interested person may appear and make an objection to a petition in writing at or before the hearing, or may appear and make an objection orally at the hearing. Service, even of a written objection, is not required. No provision of division 4 of the Probate Code provides a different procedure for objecting. As a practical matter, requiring service seems</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-18**Rules and Forms: Guardianship Objection** (approve form GC-215)

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

	Commenter	Position	Comment	Committee Response
				likely to deter self-represented persons from using the form and thus deprive the parties and the court of the focus and structure the form provides.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Rules and Forms: Probate Conservatorship

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

Adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC 330 and GC 331; revoke form GC 332

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021

Project description from annual agenda: Develop new, amended, or revised rules of court and Judicial Council forms to implement legislation enacted or cases decided in 2020 or 2021 that affect guardianship, conservatorship, trust, estate, and civil mental health proceedings. Assembly Bill 1194 (Stats. 2021, ch. 417), among other things, amends Probate Code section 1471 to require the court to appoint counsel for an unrepresented conservatee, proposed conservatee, or person alleged to lack legal capacity in specified proceedings, and to clarify counsel's duties to the client. AB 1194 also amends Probate Code sections 1826 and 2253 to require the court, contingent on the appropriation of funding, to keep confidential specific information in the court investigator's report, as well as to modify other duties. Notwithstanding the funding contingency, section 1826 requires the council to update the rules of court and forms to implement that section's requirements. The committee will consider whether conforming rule amendments or revisions to forms, including forms GC-330, GC-331, and GC-332, are needed. Finally, AB 1194 amends Probate Code sections 1860.5 and 1863 to require the court, in response to a petition to terminate a conservatorship or limited conservatorship, to order termination unless it determines that the requirements for initial appointment of a conservator or limited conservator are met and, if the court determines that those conditions are met, to consider modifying the powers and duties to ensure that the conservatorship or limited conservatorship is still the least restrictive alternative needed to protect the conservatee. The committee will consider whether to recommend new forms for use to petition to terminate a conservatorship, to object to a petition to terminate, and to grant or deny a petition to terminate.

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

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

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

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

This proposal:

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

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.:

For business meeting on September 20, 2022

Title

Rules and Forms: Probate Conservatorship

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Adopt Cal. Rules of Court, rule 7.576;
amend rules 7.575, 7.756, and 7.1060; repeal
rules 7.1052, 7.1053, and 7.1054; revise
forms GC-330 and GC-331; revoke form
GC-332

Effective Date

January 1, 2023

Date of Report

July 27, 2022

Recommended by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-soon Lee, Chair

Contact

Corby Sturges, 415-865-4507
Corby.Sturges@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee recommends adopting one rule of court, amending three rules, repealing three rules, revising two forms, and revoking one form to implement requirements in Assembly Bill 1194 (Stats. 2021, ch. 417), which amended the procedural and substantive law governing the establishment, court oversight, and termination of probate conservatorships. Amendment of one rule and revision of one form are expressly mandated by statute. The committee also recommends further amendments and revisions to conform to existing law.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

1. Amend California Rules of Court, rule 7.575(b) to eliminate language that repeats statutory provisions;

2. Adopt rule 7.576 to combine the provisions of existing rules 7.1052(c), 7.1053, and 7.1054, which address court approval of a conservator's final account, into a single rule and move them to chapter 12 of the Probate Rules, which addresses accounts and reports;
3. Repeal rules 7.1052, 7.1053, and 7.1054;
4. Amend rule 7.756 to reflect the amended statutory standard for determining an award of compensation to a conservator, guardian, or attorney for services rendered;
5. Amend rule 7.1060 to repeal subdivision (c), which provides for a procedure no longer authorized by statute;
6. Revise *Order Appointing Court Investigator* (form GC-330) and *Order Appointing Court Investigator (Review and Successor Conservator Investigations)* (form GC-331) to reflect the investigator's duties as amended by AB 1194 and to distinguish duties currently in effect from duties contingent on an appropriation of funds; and
7. Revoke *Order Setting Biennial Review Investigation and Directing Status Report Before Review* (form GC-332)), which implements a procedure no longer authorized by statute.

The proposed amended rules and new and revised forms are attached at pages 8–18.

Relevant Previous Council Action

Rule 7.575 was adopted effective January 1, 2008, and most recently amended effective January 1, 2020, to address the use of printouts of electronic statements. Rule 7.756 was adopted effective January 1, 2008, and has not since been amended. Rules 7.1052, 7.1053, and 7.1054 were adopted effective January 1, 2004, and have not since been amended. Rule 7.1060 was adopted effective January 1, 2011, and has not since been amended.

In conjunction with the adoption of rule 7.1060, the Judicial Council completely revised form GC-330 and approved forms GC-331 and GC-332, effective January 1, 2011. Forms GC-330 and GC-331 were revised in 2015 and 2016 to reflect the amended standards and procedures for determining the capacity to vote of a conservatee or proposed conservatee enacted by Senate Bill 589 (Stats. 2015, ch. 736) and Assembly Bill 1020 (Stats. 2015, ch. 728).

Analysis/Rationale

AB 1194 amended the law governing the probate court's oversight of an appointed conservator, the duties of the appointed court investigator, and the procedures for terminating a conservatorship in several important respects that require changes to the California Rules of Court and Judicial Council forms.¹ The bill strengthened and clarified procedural protections for

¹ Assem. Bill 1194 (Stats. 2021, ch. 417). In addition to the amendments discussed in the text, the legislation also, subject to an appropriation of funds, authorized the courts to impose specific penalties on professional fiduciaries for

conservatees and proposed conservatees by (1) requiring appointment of counsel in all cases in which a conservatee, proposed conservatee, or person alleged to lack legal capacity has not retained counsel and does not plan to do so; (2) specifying, subject to an appropriation of funds, additional required elements for initial and review investigations; (3) removing judicial discretion to defer the periodic investigation and review of established conservatorships; and (4) shifting the burden of proof, when the court considers terminating a conservatorship, to the party opposing termination. The statute also amends the standards for the court to use in determining appropriate compensation of conservators and their attorneys for services rendered.²

In its amendments to Probate Code section 1826(g), AB 1194 requires the Judicial Council, on or before January 1, 2023, to update rules of court and Judicial Council forms as necessary to implement the bill's changes to that section.³ Substantive and procedural changes enacted by AB 1194 and other recent legislation require additional rule amendments and form revisions to conform to current law.

Rule 7.575

The committee recommends amending rule 7.575(b) to reflect amendments to section 2620(c).⁴ These amendments expanded the definition of "account statement" to include both an original account statement and a verified electronic statement. In addition, they authorized the court to accept, in place of either of the foregoing, "a computer-generated printout of an original verified electronic statement," subject to specified conditions.⁵ The Judicial Council had, effective January 1, 2020, amended rule 7.575(b) to add analogous accommodations for the use of electronic statements and verified computer-generated printouts thereof. The Legislature borrowed much of the language from the existing rule, but extended the authority to use electronic statements beyond that granted by the rule. The recommended amendments reflect that extension.

Rule 7.576

The committee recommends combining the text of existing rules 7.1052(c), 7.1053, and 7.1054, with minor amendments, into new rule 7.576 to govern the duties of a conservator of the estate to

violations of their duties and requires courts to report the penalties to the Professional Fiduciaries Bureau. (See Bus. & Prof. Code, §§ 6563, 6580; Prob. Code, §§ 1051(d), 1851.6, 2112, 2653.) These penalties and reporting requirements are beyond the scope of this proposal.

² The performance of many of the duties imposed on the superior courts by AB 1194 are contingent on an appropriation of funds identified for that purpose. Judicial Council implementation of the statutory amendments is not, however, so contingent. The committee therefore recommends these amendments and revisions now because some are expressly mandated, others implement duties or requirements that do not depend on funding, and still others affect forms that implement existing statutory duties that themselves are contingent on an appropriation. In the last case, the committee has proposed revisions that distinguish current duties from contingent duties.

³ All subsequent statutory references are to the Probate Code unless otherwise specified.

⁴ See Assem. Bill 2844 (Stats. 2020, ch. 221, § 1); Assem. Bill 1194 (Stats. 2021, ch. 417, § 22).

⁵ AB 1194's amendments to section 2620(c) repealed the separate requirements applicable to private professional fiduciaries, leaving them subject to the same requirements as nonprofessional conservators.

file and serve a final account when the conservator's administration of the estate terminates for any reason, including removal, resignation, or termination of the conservatorship. Because these provisions address a single person, a conservator of the estate, in a single circumstance, the filing and service of a final account, they belong together in a single rule. In addition, the committee recommends placing the new rule in chapter 12 of the Probate Rules because that chapter addresses accounts and reports.

Amend rule 7.756

The committee recommends amending rule 7.756(a) to reflect language added by AB 1194 to sections 2640 and 2641 conditioning an award of just and reasonable compensation to a conservator, guardian, or attorney for services rendered in the best interest of the conservatee or ward. The committee considered adding language describing factors for the court to consider in determining whether services were in a ward's or conservatee's best interest, but was persuaded by commenters that the existing factors in rule 7.756(a) provide sufficient guidance to the court.

Repeal rules 7.1052, 7.1053, and 7.1054

The committee recommends repealing rule 7.1052(a) and (b), which describe, in much less detail than the governing statutes, the general circumstances under which a conservatorship can terminate. Neither leaving these provisions as they are nor expanding them would satisfactorily reflect or supplement the level of detail and complexity of the amended termination standards and procedures in sections 1860, 1860.5, 1862, and 1863. The retention of these existing rules provisions would lead parties and interested persons to think that termination proceedings are much simpler than they are. On the other hand, the statutory standards and procedures are now presented at a level of detail that leaves little or no room to elaborate on them by rule. The committee therefore recommends allowing the amended statutes to speak for themselves. In addition, for the reasons noted above with respect to rule 7.576, the committee recommends repealing rules 7.1052(c), 7.1053, and 7.1054 and adopting their text as a single new rule in chapter 12 of the Probate Rules.

Amend rule 7.1060

The committee recommends amending rule 7.1060 to repeal subdivision (c), which addresses the use of form GC-332 and other methods to defer an annual conservatorship investigation and review for an additional year on a finding that the conservator is acting in the conservatee's best interest. AB 1194 amended section 1850(a) to eliminate the court's authority to defer the annual investigation, so rule 7.1060(c) is obsolete.⁶

Revise *Order Appointing Court Investigator* (form GC-330)

The committee recommends updating form GC-330 to conform to AB 1194's amendments to the court investigator's duties under section 1826, which governs investigations in response to a petition to appoint a probate conservator, and section 2253, which governs investigations in response to a temporary conservator's proposal to fix the residence of a temporary conservatee at

⁶ As discussed below, the committee also recommends revoking form GC-332, which implements the eliminated from section 1850(a).

a place other than the place where the conservatee resided before the commencement of proceedings.

The recommended revisions include:

- Updating item 1e to reflect the renumbered paragraphs in section 1826(a) and remove language that repeats statutory provisions;
- Revising item 1f to focus on the determination required of the investigator and emphasize that disqualification from voting requires the court, not the investigator, to make the required determination *and* appoint a conservator;
- Incorporating into items 1g and 3c the requirements added to sections 1826 and 2253 to gather and review relevant medical reports regarding the proposed conservatee from specified persons, and to place any confidential medical information and confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) included in the report in a separate, confidential attachment;
- Specifying in item 1i that the confidential attachment must be omitted from copies of the report sent to specified persons; and
- Deleting from item 3 the court's discretion to dispense with an investigation if a temporary conservator has requested permission to move the temporary conservatee from their personal residence. AB 1194 eliminated this discretion from section 2253(b).

The committee also recommends revisions to distinguish duties currently in effect from duties contingent on an appropriation of funds identified for that purpose. Additional revisions are recommended to promote consistency, clarity, and simplicity.

Revise *Order Appointing Court Investigator (Review and Successor Conservator Investigations)* (form GC-331)

The committee recommends updating form GC-331 to conform to the amendments in sections 1850, 1850.5, and 1851 to the court investigator's duties in review investigations. Recommended revisions include:

- Updating item 1b to reflect the renumbered paragraphs in section 1851(a)(1) and remove language that repeats statutory provisions;
- Adding new item 1c to reflect the amended language in section 1851(a)(2) clarifying the investigator's duty to determine whether the powers and duties of the conservator should be modified to ensure that the conservatorship is the least restrictive arrangement needed for the conservatee's protection;

- Revising item 1d to focus on the determination required of the investigator and to require the investigator to determine whether the voting rights of a previously disqualified conservatee may be restored;⁷
- Revising item 1i to clarify that the investigator’s duty under section 1851(c) is to recommend whether to continue, *modify*, or terminate a limited conservatorship;
- Reconfiguring and relettering items 1j–1m and 3g–3h to clarify the requirements for reporting the investigator’s findings, including methods of delivery, persons entitled to delivery, and confidentiality of medical information and information obtained from CLETS;⁸ and
- Revising the required information in item 3 regarding appointment of counsel and combining them into item 3f to conform to the amendments to section 1471 by AB 1194.

Revoke Order Setting Biennial Review Investigation and Directing Status Report Before Review (form GC-332)

AB 1194 amended section 1850(a)(2) to eliminate the court’s authority to set the next annual statutory review in two years if specified conditions were met. Because form GC-332 was intended to be used only when the court exercised this authority, the committee recommends its revocation.

Policy implications

No policy implications contributed to controversy or intense debate in the committee about the recommendations. The committee intends its recommendations to implement AB 1194 in a way that improves the quality of justice and service to the public while integrating smoothly and efficiently into existing court operations. The Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee agreed with the proposal as circulated, noting that it is required to conform to changes in the law.

Comments

The proposal was circulated for comment in the spring 2022 invitation-to-comment cycle. Four comments were received: two from superior courts, one from the JRS, and one from a county bar association. The JRS agreed with the proposal; the other three commenters agreed and suggested modifications. These modifications are discussed in the next section.

⁷ Elections Code section 2209, as amended by SB 589 (Stats. 2015, ch. 736, § 7.5), requires the investigator to determine whether the conservatee’s voting rights may be restored. This requirement was overlooked in the 2016 revision of form GC-331.

⁸ The authorized methods of delivering notices of hearing and other papers in proceedings under the Probate Code were amended by AB 976 (Stats. 2017, ch. 319), which replaced the terms *service* and *serve* with *delivery* and *deliver* and authorized electronic delivery, subject to the recipient’s consent. In each section of the code where appropriate, the legislation replaced “served by mail” with “delivered pursuant to Section 1215.”

A chart of comments received is attached to this report at pages 19–25.

Alternatives considered

The committee considered proposing additional rule amendments and form revisions related to the establishment, oversight, and termination of conservatorships, but elected to defer further changes in anticipation of further legislation. The committee considered developing an additional form for appointment of an investigator for a transfer investigation under section 1851.1, but the lone court that commented directly on this issue indicated a preference for a local form and no need for a form specific to transfer investigations.

The committee also considered attempting to specify, by rule of court, additional factors that might inform the court’s determination whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward, as now required by sections 2640 and 2641. As noted by the sole court to comment on this issue, however, rule 7.756(a) already supplies a list of nonexclusive factors that the court may consider in determining just and reasonable compensation from the estate for a conservator for services rendered. Several of these factors—including the benefit of the services to the conservatee or the estate, the necessity of the services, and the conservatee’s anticipated future needs—require the court to consider whether the services were in the conservatee’s best interest. The court may also consider additional relevant factors raised in the petition for compensation or any opposition.

The committee did not consider taking no action. AB 1194 requires the Judicial Council to update the rules and forms affected by its amendments to section 1826. Rule 7.1060 and form GC-330 fall within this express mandate. The other rule amendments and form revisions are necessary to conform to current law, as amended by AB 1194 and other recent legislation.

Fiscal and Operational Impacts

The proposed rule amendments and form revisions would impose indeterminate costs on the courts attendant to changing their operating procedures. The JRS noted that these changes would include changes to e-filing and case management systems, development or revision of local forms, and additional training. These operational changes are, however, required by statute and are, therefore, to a large extent unavoidable. It is possible that some changes—for example, the authority to accept verified electronic statements instead of original statements in support of conservators’ required accountings—will lead to marginal cost savings.

Attachments and Links

1. Cal. Rules of Court, rules 7.575, 7.576, 7.756, 7.1052, 7.1053, 7.1054, and 7.1060, at pages 8–12
2. Forms GC-330, GC-331, and GC-332, at pages 13–18
3. Chart of comments, at pages 19–25
4. Link A: AB 1194 (showing amendments),
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202102220AB1194&showamends=true

Rule 7.576 of the California Rules of Court is adopted, rules 7.575, 7.756, and 7.1060 are amended, and rules 7.1052, 7.1053, and 7.1054 are repealed, effective January 1, 2023, to read:

1 **Rule 7.575. Accounting of conservators and guardians**

2
3 * * *

4
5 (a) * * *

6
7 (b) **Supporting documents**

8
9 Each accounting filed with the court must include the supporting documents,
10 including all ~~original~~ account statements, specified in Probate Code section 2620(c)
11 ~~of the Probate Code~~.

12
13 ~~(1) If a conservator or guardian receives a statement from the issuing institution~~
14 ~~in electronic form but not in paper form, the court has discretion to accept a~~
15 ~~computer-generated printout of that statement as an original in satisfaction of~~
16 ~~the requirements in section 2620(c) if:~~

17
18 ~~(A) The fiduciary submitting the printout verifies under penalty of perjury~~
19 ~~that the statement was received in electronic form and printed without~~
20 ~~alteration; and~~

21
22 ~~(B) The printout is an “original,” as defined in Evidence Code section 255.~~

23
24 (1) An account statement includes:

25
26 (A) An original account statement; or

27
28 (B) A verified electronic statement.

29
30 (2) ~~This rule does not authorize a fiduciary to submit, or a court to accept, a copy~~
31 ~~of a statement in support of an accounting filed under section 2620. A court~~
32 ~~may also accept a computer-generated printout of an original verified~~
33 ~~electronic statement if the fiduciary verifies that the statement was received~~
34 ~~in electronic form and printed without alteration.~~

35
36 (3) A verification under this subdivision must be executed by the fiduciary as
37 required by Code of Civil Procedure section 2015.5.

38
39 (c)–(f) * * *

1 **Rule 7.576. Final account of conservator of the estate**

2
3 **(a) Filing and approval of final account**

4
5 A conservator of the estate whose administration is terminated for any reason,
6 including removal, resignation, or termination of the conservatorship, must file and
7 obtain the court’s approval of a final account of the administration.
8

9 **(b) Delivery of final account of removed or resigned conservator**

10
11 A conservator of the estate who has resigned or been removed must deliver a copy
12 of the conservator’s final account and the petition for its settlement with the notice
13 of hearing required by Probate Code section 1460(b)(1) to the successor
14 conservator of the estate in any manner permitted by Probate Code section 1215,
15 unless the court dispenses with that notice.
16

17 **(c) Delivery of final account after termination of conservatorship**

18
19 After termination of a conservatorship, a conservator of the estate must deliver a
20 copy of the conservator’s final account and the petition for its settlement with the
21 notice of hearing required by Probate Code section 1460(b)(2)–(3) to both the
22 former conservatee and the spouse or domestic partner of the former conservatee in
23 any manner permitted by Probate Code section 1215, unless the court dispenses
24 with that notice.
25
26

27 **Rule 7.756. Compensation of conservators and guardians**

28
29 **(a) Standards for determining just and reasonable compensation**

30
31 The court may consider the following nonexclusive factors in determining just and
32 reasonable compensation for a conservator from the estate of the conservatee or a
33 guardian from the estate of the ward for services rendered in the best interest of the
34 conservatee or ward up to that time:
35

36 (1)–(9) * * *

37
38 **(b) No single factor determinative**

39
40 No single factor listed in (a) should be the exclusive basis for the court’s
41 determination of just and reasonable compensation for services rendered in the best
42 interest of the conservatee or ward.
43

1 (c) * * *

2
3
4 **Rule 7.1052. Termination of conservatorship**

5
6 **(a) Operation of law or court order**

7
8 A conservatorship of the person or estate may terminate by operation of law or may
9 be terminated by court order if the court determines that it is no longer required.

10
11 **(b) Conservator of the person**

12
13 Under Probate Code section 1860(a), a conservatorship of the person terminates by
14 operation of law when the conservatee dies, and the conservator of the person need
15 not file a petition for its termination.

16
17 **(c) Duty of conservator of estate on termination**

18
19 A conservator of the estate whose administration is terminated by operation of law
20 or by court order must file and obtain the court's approval of a final account of the
21 administration.

22
23
24 **Rule 7.1053. Service of final account of removed or resigned conservator**

25
26 A resigned or removed conservator of the estate must serve a copy of the conservator's
27 final account and the petition for its settlement with the notice of hearing that must be
28 served on the successor conservator of the estate under Probate Code section 1460(b)(1),
29 unless the court dispenses with such service.

30
31
32 **Rule 7.1054. Service of final account after termination of conservatorship**

33
34 After termination of the conservatorship, the conservator of the estate must serve copies
35 of the conservator's final account and the petition for its settlement with the notices of
36 hearing that must be served on the former conservatee and on the spouse or domestic
37 partner of the former conservatee under Probate Code sections 1460(b)(2) and (3), unless
38 the court dispenses with such service.

39
40
41 **Rule 7.1060. Investigations and reports by court investigators**

1 (a) **Order Appointing Court Investigator (form GC-330)**

2
3 *Order Appointing Court Investigator* (form GC-330) is an optional form within the
4 meaning of rule 1.35 of these rules, except as follows:

5
6 (1) A court may, by local rule, require that form GC-330 be used for orders
7 appointing court investigators and directing them to conduct all or any of the
8 investigations described in the form and to prepare, file, and ~~serve~~ deliver
9 copies of reports concerning those investigations. ~~The local rule may also~~
10 ~~prescribe procedures for the form's preparation, service, delivery to other~~
11 ~~parties, and delivery to the court for execution and filing.~~ Form GC-330 must
12 be prepared only by the court.

13
14 (2) * * *

15
16 (b) **Order Appointing Court Investigator (Review and Successor Conservator**
17 **Investigations) (form GC-331)**

18
19 *Order Appointing Court Investigator (Review and Successor Conservator*
20 *Investigations)* (form GC-331) is an optional form within the meaning of rule 1.35
21 of these rules, except as follows:

22
23 (1) A court may, by local rule, require that form GC-331 be used for orders
24 appointing court investigators and directing them to conduct all or any of the
25 review investigations under Probate Code sections 1850 or 1850.5 and 1851
26 or investigations concerning the appointment of successor conservators under
27 Probate Code sections 2684 and 2686 described in the form and to prepare,
28 file, and ~~serve~~ deliver copies of reports concerning those investigations. Form
29 GC-331 ~~is to~~ must be prepared only by the court ~~only~~.

30
31 (2) * * *

32
33 ~~(c) **Order Setting Biennial Review Investigation and Directing Status Report Before**~~
34 ~~**Review (form GC-332)**~~

35
36 ~~*Order Setting Biennial Review Investigation and Directing Status Report Before*~~
37 ~~*Review*~~ (form GC-332) is an optional form within the meaning of rule 1.35 of these
38 rules, ~~except as follows:~~

39
40 ~~(1) A court may, by local rule, require that form GC-332 be used for orders~~
41 ~~setting biennial review investigations and directing status reports under~~
42 ~~Probate Code section 1850(a)(2). Form GC-332 is to be prepared by the court~~
43 ~~only.~~

1
2
3
4

~~(2) — A court may, by local rule, require that a general order, a court-prepared order, or a local form order instead of form GC 332 be used concerning the matters described in form GC 332.~~

FOR PREPARATION BY THE COURT ONLY	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of <i>(name)</i> : <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	CASE NUMBER:

To *(name)*:

You are hereby appointed court investigator in the matter above.

1. **A Petition for Appointment of a Probate Conservator (form GC-310) has been filed. YOU ARE DIRECTED TO:**
- a. Interview the proposed conservatee personally.
 - b. **Conduct the other interviews required by Probate Code section 1826(a)(1).***
 - c. Provide to the proposed conservatee all the information required by Probate Code section 1826(a)(2).
 - d. Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend.
 - e. Make all determinations required by Probate Code section 1826(a)(4)–(8).
 - f. **Determine if the proposed conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process. The proposed conservatee may not be disqualified from voting unless the court makes the determination above and appoints a conservator.**
 - g. **Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health providers. Place all confidential medical information or confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) that is included in or attached to your report into a separate, confidential attachment.***
 - h. Report to the court in writing at least five days before the hearing concerning all of the foregoing, including the proposed conservatee's express communications concerning (1) representation by legal counsel, and (2) if the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefers that another person act as conservator.
 - i. **Deliver a copy of your report—omitting any attachment containing confidential medical information or confidential information from CLETS—to all persons listed in Probate Code section 1826(a)(13) in any manner permitted by Probate Code section 1215, at least five days before the date set for hearing,**
 - (1) **except** for the persons listed in Attachment 1i(1), because the court has determined that delivery to those persons will harm the proposed conservatee;
 - (2) **and** to the persons listed in Attachment 1i(2) (*specify names and addresses in the attachment*).
 - j. Comply with the other orders specified in Attachment 1j.

* You are required to perform an activity marked with an asterisk only if the box is checked or the Legislature has made an appropriation identified for that purpose.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER: _____
---	--------------------

2. **A Petition for Appointment of Temporary Conservator (form GC-111) has been filed. YOU ARE DIRECTED TO:**
- a. Conduct the interviews required by Probate Code section 2250.6(a)(1) before the hearing on the petition or, if that is not feasible, conduct the interviews required by section 2250.6(b)(1) within two court days after the hearing. In either case, interview the temporary conservatee or proposed temporary conservatee personally.*
 - b. Provide to the temporary conservatee or proposed temporary conservatee the information in Probate Code section 2250.6(a)(2) before the hearing or, if that is not feasible, the information in section 2250.6(b)(2) within two court days after the hearing.*
 - c. Make the determinations required by Probate Code section 2250.6(a)(3)–(5) before the hearing on the petition unless it is not feasible to do so.*
 - d. Report to the court in writing before the hearing on the petition concerning all of the activities discussed in item 2a–c, above, that you are able to complete before the hearing.*
 - e. If you cannot visit the temporary conservatee until after the hearing at which a temporary conservator was appointed, and the temporary conservatee objects to the appointment of the temporary conservator or requests an attorney, report this information to the court promptly and in no event more than three court days after the date of your visit with the temporary conservatee.*
 - f. If it appears to you that the temporary conservatorship is inappropriate, report this determination in writing to the court immediately, and in no event more than two court days after you make the determination.*

3. **The temporary conservator has requested an order under Probate Code section 2253 to change the residence of the temporary conservatee. YOU ARE DIRECTED TO:**
- a. Personally interview and inform the temporary conservatee of the contents of the request by the temporary conservator for authority to change the temporary conservatee's residence; of the nature, purpose, and effect of the proceedings; and of the right to oppose the request, attend the hearing, and be represented by legal counsel.
 - b. Make the determinations required by Probate Code section 2253(b)(3)–(7).
 - c. Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health care providers. Place all confidential medical information or confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) that is included in or attached to your report into a separate, confidential attachment.*
 - d. At least two days before the hearing on the request, report your findings concerning the foregoing in writing to the court. Include in your report the temporary conservatee's express communications concerning representation by legal counsel and whether the temporary conservatee is not willing to attend the hearing and does not wish to contest the request.
 - e. Comply with the other orders specified in Attachment 3e.

4. **A request for exclusive authority to give consent for medical treatment under Probate Code section 1880 has been included in the petition for appointment on form GC-310 or filed as a separate petition on form GC-380.**

The petition alleges that the conservatee or proposed conservatee is not willing to attend the hearing, or the court has received an affidavit or certificate attesting to the medical inability of the conservatee or proposed conservatee to attend the hearing.

YOU ARE DIRECTED TO:

- a. Interview the conservatee or proposed conservatee personally and inform the conservatee or proposed conservatee of the contents of the petition; of the nature, purpose, and effect of the proceeding; and of the right to oppose the petition, attend the hearing, and be represented by legal counsel.
- b. Make the determinations required by Probate Code section 1894(c)–(f).
- c. At least five days before the hearing on the petition, report your findings concerning the foregoing in writing to the court, and include in your report the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to contest the petition.
- d. Comply with the other orders specified in Attachment 4d.

* You are required to perform an activity marked with an asterisk only if the box is checked or the Legislature has made an appropriation identified for that purpose.

5. Number of pages attached: _____

Date: _____

 JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

FOR PREPARATION BY THE COURT ONLY	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR (Review and Successor Conservator Investigations)* <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: _____

To (name):

You are hereby appointed court investigator in the matter above.

1. **A review and investigation are required under Probate Code sections 1850 or 1850.5 and 1851.**

YOU ARE DIRECTED TO:

- a. (1) Without prior notice to the conservator,
 (2) **After** prior notice to the conservator because of necessity or to prevent harm to the conservatee, visit and inform the conservatee personally that **the conservatee** is under a conservatorship and give the name of the conservator to the conservatee.
- b. Make the determinations required by Probate Code section 1851(a)(1)(A)–(E).
- c. **If you determine that the conservatee still meets the criteria for appointment of a conservator, determine whether the powers and duties of the conservator should be modified to ensure that the conservatorship is the least restrictive alternative needed for the conservatee's protection.**
- d. **Determine if the proposed conservatee is currently incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process and may be disqualified from voting under Elections Code section 2208 or, if previously disqualified, may have their voting rights restored under Elections Code section 2209.**
- e. The court has made an order or orders under (select all that apply):
 (1) Probate Code section 1873 (power of conservatee to enter into transactions).
 (2) Probate Code section 1880 (conservatee's capacity to give informed consent to medical treatment).
 (3) Probate Code section 1901 (conservatee's capacity to marry).
 Determine whether the **current** condition of the conservatee is such that the terms of the order or orders **checked** above should be modified or the order or orders revoked.
- f. To the extent practicable, review the conservator's accounting with the conservatee if **the conservatee** has sufficient capacity.
- g. Inform the court immediately if, at any time, you are unable to locate the conservatee.
- h. (If the conservator **holds either of the powers granted** under Probate Code section 2356.5(b)–(c)) (1) Advise the conservatee specifically that the conservatee has the right to object to the conservator's powers granted under section 2356.5; and (2) determine whether the conservatee objects to the conservator's powers under section 2356.5, whether the powers granted under section 2356.5 are warranted, and whether a change to those powers is warranted.
- i. (For limited conservatorship only) **Recommend whether to continue, modify, or terminate the limited conservatorship.**

*** The court may use this form to order a review investigation and report, or to order an investigation and report for appointment of a successor conservator. The court may use Order Appointing Court Investigator (form GC-330) to order an initial or other investigation and report under Probate Code sections 1826, 1894, 2250.6, and 2253. See Cal. Rules of Court, rule 7.1060.**

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
---	--------------------

1. j. (For a conservatorship existing on December 31, 1980, in which the conservatee has not been adjudged incompetent) Determine whether an order should be made under Probate Code section 1873 broadening the power of the conservatee.
- k. Certify your findings and determinations, including a statement of the facts on which the findings are based, in writing to the court and submit the report not less than 15 days before the date of review under Probate Code section 1850. Do not disclose confidential medical information or confidential criminal history information from the California Law Enforcement Telecommunications System (CLETS) in the body of your report. Place all such information in one or more separate attachments to the report.
- l. At the same time you certify and submit your report to the court, deliver copies in any manner authorized by Probate Code section 1215 to the conservatee, the conservator, and the attorneys of record for the conservator and the conservatee.
- m. Deliver copies of your report, modified to omit any attachment containing confidential medical information or confidential information from CLETS, to the conservatee's spouse or registered domestic partner and relatives within the first degree or, if there are no such relatives, to the conservatee's next closest relative,
 except for any person named in Attachment 1m because the court has determined that delivery to that person will harm the conservatee.
- n. Comply with the other orders specified on Attachment 1n.
2. The court has ordered a review investigation
- a. on its own motion.
- b. at the request of (name): _____, an interested person.

YOU ARE DIRECTED TO:

- c. Conduct a review investigation of the aspects of the conservatorship specified below, and report your findings and conclusions to the court no later than (date): _____.

Continued in Attachment 2c.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
---	--------------------

3. **A petition for the appointment of a successor conservator has been filed.**

- a. The petition does not **state** that the conservatee will be present at the hearing on the petition, which is scheduled as follows: Date: _____ Time: _____ Dept.: _____
- b. The petition **stated** that the conservatee would be present at the hearing on the petition, but the conservatee failed to appear at the hearing. The hearing has been continued to the following date, time, and department:
 Date: _____ Time: _____ Dept.: _____

YOU ARE DIRECTED TO:

- c. Interview the conservatee personally.
- d. Inform the conservatee of the nature of the proceeding to appoint a successor conservator, the name of the proposed successor conservator, and the conservatee's rights to appear personally at the hearing, to object to the person proposed as successor conservator, to nominate a person to be appointed as successor conservator, to be represented by legal counsel if the conservatee chooses, and to have legal counsel appointed by the court if the conservatee **does not** retain legal counsel.
- e. Determine whether the conservatee objects to the person proposed as successor conservator or prefers another person to be appointed.
- f. **Determine whether the conservatee is represented by legal counsel or plans to retain legal counsel. If the conservatee is not represented by legal counsel but plans to retain legal counsel, determine the name of an attorney the conservatee wishes to retain. If the conservatee is not represented by legal counsel and does not plan to retain legal counsel, inform the conservatee that the court will appoint counsel to represent them.**
- g. Report to the court in writing, at least five days before the hearing or continued hearing, concerning items (2)–(4), including the conservatee's express communications concerning representation by legal counsel and whether the conservatee objects to the person proposed as successor conservator or prefers that some other person be appointed.
- h. **Deliver by any method permitted under Probate Code section 1215,** at least five days before the hearing or continued hearing, a copy of the report identified in item 3(g) to the attorneys, if any, for the petitioner and the conservatee and to the following additional persons (*specify*):

Continued on Attachment 3h.

4. Number of pages attached:

Date:

 JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

FOR PREPARATION BY THE COURT ONLY

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:
 MAILING ADDRESS:
 CITY AND ZIP CODE:
 BRANCH NAME:

CASE NUMBER

CONSERVATORSHIP OF THE PERSON ESTATE OF

(Name):

CONSERVATEE

ORDER SETTING BIENNIAL REVIEW INVESTIGATION AND DIRECTING STATUS REPORT BEFORE REVIEW

Conservatorship Limited Conservatorship

REVIEWED

TO (name): _____, court investigator:

1. Biennial review investigation

- a. In its review of the conservatorship for the period ending on (date): _____, including the report of the investigator named above, the court has determined that the conservator is acting in the best interests of the conservatee.
- b. The next review in this conservatorship is to cover a period of two years ending on (date): _____.

2. Investigation and status report before review

YOU ARE DIRECTED TO conduct an investigation under Probate Code section 1851(a) one year before the review described in 1b and file a status report in the case file regarding whether the conservatorship still appears to be warranted and whether the conservator is acting in the best interests of the conservatee as regards the conservatee's placement; quality of care, including physical and mental treatment; and finances.

3. Additional orders

Comply with the following additional orders:

Continued on Attachment 3.

4. Number of pages attached: _____

Date:

JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Daniel S. Robinson, President Newport Beach	AM	<p>The OCBA agrees that the proposal appropriately addresses the stated purpose provided the following modifications are adopted:</p> <p>(1) Although the enactment of AB 1194 (Stats. 2021) was the primary impetus for those changes, the proposal also indicates that it implements changes required by AB 2844 (Stats. 2020), AB 976 (Stats. 2017), and AB 589 (Stats. 2015), but no explanations are specifically provided as to which provisions were so implemented nor why at this time.</p> <p>(2) An explanation should be given for repeal of Rule 7.1052 (Termination of Conservatorship), 7.1053 (Service of Final Account of Removed or Resigned Conservator), 7.1054 (Service of Final Account After Termination of Conservatorship), and 7.1060(c) (Order Setting Biennial Review Investigation et al), and whether replacement rules must be adopted.</p>	<p>The committee appreciates these comments.</p> <p>The committee agrees that more detailed explanations of the revisions to conform to existing law is warranted and has added them to its report to the Judicial Council.</p> <p>The committee believes that the explanation provided in the invitation to comment was sufficient, but has provided more detail in its report to the Judicial Council. As explained in the invitation to comment, rule 7.1052(a)–(b) summarizes the pre-AB 1194 statutory requirements for terminating a conservatorship without adding to them. Rules of court are not needed or intended to summarize or repeat statutory requirements. In addition, the amendments to the governing statutes added significant detail to the procedures and standards required for the court to determine whether to extend or terminate a conservatorship. To amend the rule 7.1052(a) and (b) to conform to the detailed requirements in amended sections 1860, 1860.5, 1862, and 1863 would require not amendments but entirely different rules. But to elaborate the new requirements in a way that</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			<p>(3) Rule 7.1060(c) should be amended to conform to AB 1194 rather than just deleted since the legislation just required annual investigations and reports, but did not eliminate them.</p> <p>(4) Form GC-332 (Order Settling Biennial Review Investigator) should be shown as “deleted” and a reference made in the Rules to its deletion and substitution of a new form in accordance with Probate Code §1850, §1850.5, and §1851.</p> <p>(5) The provisions of Probate Code §1826(a)(2) should be quoted in Form GC-330 since they are integral to the purposes of AB 1194.</p>	<p>would enhance the statutory language instead of simply repeating it would increase the potential for error and confusion. The committee therefore recommends repealing these subdivisions to let the amended statutes speak for themselves. Rules 7.1052(c), 7.1053, and 7.1054 address the duties of a conservator <i>of the estate</i> to file and serve the conservator’s final account. These rules would be repealed, consolidated into new rule 7.576, and placed in chapter 12 of the Probate Rules, which governs accounts and reports.</p> <p>The committee does not recommend retaining rule 7.1060(c), which provides a vehicle for a court to use to set a deferred biennial review investigation and appoint an investigator to submit an interim report. AB 1194 amended Probate Code section 1850 to remove the court’s authority to defer a review investigation. Section 1850.5 never authorized deferral. Rule 7.1060(b) now describes the court’s options for appointing and directing an investigator in all review investigations.</p> <p>The committee does not recommend the suggested change. Form GC-331, as discussed in rule 7.1060(b), may be used to appoint an investigator to conduct a review investigation under Probate Code sections 1850, 1850.5, and 1851. No new rules or forms are required for this purpose.</p> <p>The committee does not recommend the suggested change. AB 1194 amended Probate Code section 1826(a)(2) to require the investigator to explain to</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			<p>(6) An explanation as to the differences in use between Form GC-330 [(Order Appointing Court Investigator under Probate Code §1826(a)(2))] and Form GC-331 [(Order Appointing Court Investigator for Review and Successor Conservatorships under Probate Code §1850, §1850.5, and §1851)] should be set forth on each raised form.</p> <p><i>Requests for Specific Comments,</i></p> <p>the OCBA recommends that the committee develop a new form for court appointment of an investigator to conduct the investigation required under Probate Code §1851.1 on a petition to transfer an out-of-state conservatorship to California, and</p>	<p>the proposed conservatee, in addition to other information already required, the contents of the <i>petition</i>. That addition alone is insufficient to justify the repetition of the entire statutory paragraph in the form. The committee is confident that court investigators have access to the Probate Code and do not need the Judicial Council to reiterate their statutory duties.</p> <p>The committee does not recommend the suggested changes. The differences in intended use of these two forms are clear on their faces. (See, e.g., the bold text at the foot of page 1 of form GC-331.) The committee has also revised form GC-330 to authorize the court alone to complete it. To the extent any doubt about the differences between the forms may arise, rule 7.1060(a) (form GC-330) and rule 7.1060(b) (form GC-331) specify the appropriate occasions for the use of each.</p> <p>The committee does not recommend the suggested change. The courts would be the primary, if not exclusive, users of a form for appointment of an investigator for a transfer investigation. Only one court, the Superior Court of San Diego County, directly addressed the question. This court indicated that such a form would not be useful. Neither the Superior Court of Los Angeles County nor the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee addressed the question, though the Los Angeles court did raise a general objection to requiring a</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			<p>“yes” the OCBA recommends additional rules in addition to or amendment of Rules 7.751(b) and 7.756 for articulating factors the court may use in determining whether services rendered by a guardian/conservator and their attorneys were in the best interests of the ward.</p>	<p>form for appointment of an investigator.</p> <p>The committee does not recommend the suggested change. These rules would give guidance primarily to the court, but none of the courts that commented on the proposal suggested adopting such rules. The Superior Court of San Diego County commented that the rules in question did not appear to be necessary.</p>
2.	Superior Court of Los Angeles County by Bryan Borys	AM	<p>Requiring a form for appointment of an investigator would pose an additional burden on judicial officers and staff to process an order per case to order investigators to perform an investigation they are mandated to conduct.</p>	<p>The committee appreciates this comment and acknowledges that <i>requiring</i> a form for appointment of a probate investigator in a conservatorship proceeding would be burdensome. It was for that reason, among others, that the committee did not propose requiring a court to use either form GC-330 or GC-331. Both forms are approved for optional use, and rule 7.1060(a)–(b) outlines the alternatives available to the courts. Nothing in the existing rules and forms or the committee’s recommendation would require a court to use either of these forms. To the extent that a court is required to appoint an investigator, that requirement is imposed by Probate Code section 1454(a): “The court shall appoint a court investigator when one is required for the purposes of a proceeding under [division 4 of the Probate Code].”</p>
3.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Somewhat. Some of the statute changes are contingent upon an appropriation of funds. The rule/form changes don’t specify this contingency.</p>	<p>The committee appreciates these comments.</p> <p>The committee has revised form GC-330 to simplify it and reflect the contingency of specific duties on an appropriation of funds identified for that purpose. The revised form gives an</p>

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SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			<p><i>Should the committee develop a new form for the court to use to appoint a court investigator to conduct an investigation under section 1851.1 on a petition to transfer an out-of-state conservatorship into California?</i></p> <p>The San Diego Superior Court does not find this necessary. We currently have a local form for appointment of the Court Investigator and don't have a need for one specific to transfers.</p> <p><i>Would rules—in addition to rules 7.751(b) and 7.756—articulating standards or factors the court should consider in determining whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward be appropriate and useful?</i></p> <p>It does not appear it would be necessary to add additional codes for this purpose. Rule 7.756 lists “nonexclusive” factors the court can use in determining compensation; as such, the court already has latitude to consider other relevant factors.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>No.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please</i></p>	<p>appointing court the discretion to order the investigator to perform those duties notwithstanding the absence of an appropriation.</p> <p>The committee agrees with this comment and does not recommend approval of an additional form for appointment of an investigator on a transfer.</p> <p>The committee agrees with this comment and does not recommend the enumeration of additional factors that the court may consider in determining whether services rendered were in the best interest of a conservatee or ward.</p> <p>No further response required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			<p><i>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?</i></p> <p>We have already made system changes for the requirement to appoint counsel in more scenarios. The San Diego Superior Court will continue to use our local forms, so the additional changes will not be as impactful to our court.</p> <p><i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Yes.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>It appears this proposal would work similarly among courts of all sizes.</p>	<p>No further response required.</p> <p>No further response required.</p> <p>No further response required.</p>
4.	TCPJAC/CEAC Joint Rules Subcommittee (JRS)	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> • Impact on existing automated systems. <ul style="list-style-type: none"> ○ Changes to Efile configuration and case management systems. ○ Requires development of local rules and/or forms. ○ To the extent local forms appointing Court Investigator are in use, 	<p>The committee appreciates this comment. No further response required.</p> <p>No response required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

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

	Commenter	Position	Comment	Committee Response
			modifications may be required to align with new requirements. • Results in additional training, which requires the commitment of staff time and court resources. ○ Training for staff, judicial officers; amendments to procedural manuals, instructions and policies are possible.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Title of proposal: Domestic Violence: Rule and Form Changes to Implement New Laws

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

Repeal Cal. Rules of Court, rule 5.495; adopt forms DV-105(A), DV-125, DV-820, DV-830, and DV-840/FL-840; revise forms DV-100, DV-105, DV-108, DV-109, DV-110, DV-116, DV-120, DV-120-INFO, DV-130, DV-140, DV-145, DV-200, DV-500-INFO, DV-505-INFO, DV-520-INFO, DV-530-INFO, and EPO-001; revise form DV-800/JV-252 and renumber as form DV-800/JV-270; revise form DV-800-INFO/JV-252-INFO and renumber as form DV-800-INFO/JV-270-INFO; and revoke form DV-150

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho; frances.ho@jud.ca.gov; (415) 865-7662

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

Annual agenda approved by Rules Committee on (date): 11-2-21

Project description from annual agenda: This proposal implements changes in the law, as described in item 1 of the annual agenda for the Family and Juvenile Law Advisory Committee Annual Agenda:

1a) AB 277 (Valladares) Domestic violence: victims: address confidentiality (Ch. 457, Stats. of 2021)

Requires, by January 1, 2023 the inclusion of information about the Safe at Home address confidentiality program on Judicial Council forms relating to domestic violence.

1c) SB 24 (Caballero) Domestic violence: protective orders: information pertaining to a child (Ch. 129, Stats. of 2021)

Revises existing protections against a third party's disclosure of a minor's protected information under a domestic violence restraining order.

1d) SB 320 (Eggman) Domestic violence protective orders: possession of a firearm (Ch. 685, Stats. of 2021))

Changes court procedures for issuing domestic violence restraining orders in order to better effectuate the requirement in existing law that a party subject to such an order must relinquish their firearms and ammunition.

Codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a domestic violence restraining order and requires the court to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm or ammunition relinquishment order.

1e) SB 538 (Rubio) Domestic violence and gun violence restraining orders (Ch. 686, Stats. of 2021))

Requires courts, by July 1, 2023, to provide for electronic filing and remote appearances in the context of domestic violence restraining orders (DVROs) and gun violence restraining orders (GVROs). This bill also specifies that there are no filing fees related to a petition for a DVRO or a GVRO.

1f) SB 374 (Min) Protective orders: reproductive coercion (Ch. 135, Stats. of 2021)

Revises existing protections against a third party's disclosure of a minor's protected information under a domestic violence restraining order.

Agenda item 7: As lead of the Protective Order Working Group, the committee worked on joint issues with other advisory committees, including implementation of SB 538 (noted above), and AB 1621 on "ghost guns." Note that AB 1621, effective June 30, 2022, superceded AB 1057.

Agenda item 13: Forms that use gendered-terms have also been revised to refer to persons in gender-neutral terms (forms DV-105, DV-108, DV-145, and DV-145).

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

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

The following forms have not been highlighted to reflect proposed changes because the changes are substantial, rendering highly ineffective:

- DV-105
- DV-120-INFO
- DV-140
- DV-505-INFO
- DV-520-INFO
- DV-530-INFO
- DV-800-INFO

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

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

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: Assembly Bill 277
- includes forms that staff will request be translated.

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-170

For business meeting on: September 20, 2022

Title

Domestic Violence: Rule and Form Changes to Implement New Laws

Rules, Forms, Standards, or Statutes Affected

Repeal Cal. Rules of Court, rule 5.495; adopt forms DV-105(A), DV-125, DV-820, DV-830, and DV-840/FL-840; revise forms DV-100, DV-105, DV-108, DV-109, DV-110, DV-116, DV-120, DV-120-INFO, DV-130, DV-140, DV-145, DV-200, DV-500-INFO, DV-505-INFO, DV-520-INFO, DV-530-INFO, and EPO-001; revise form DV-800/JV-252 and renumber as form DV-800/JV-270; revise form DV-800-INFO/JV-252-INFO and renumber as form DV-800-INFO/JV-270-INFO; and revoke form DV-150

Recommended by

Family and Juvenile Law Advisory Committee

Hon. Stephanie E. Hulsey, Cochair

Hon. Amy M. Pellman, Cochair

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Date of Report

August 15, 2022

Contact

Frances Ho

415-865-7662

frances.ho@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends adopting five new Judicial Council forms and revising 19 forms to implement new laws enacted by Senate Bill 320 (Rubio; Stats. 2021, ch. 685), Assembly Bill 1621 (Gipson; Stats. 2022, ch. 76), Senate Bill 374 (Min; Stats. 2021, ch. 135), Senate Bill 24 (Caballero; Stats. 2021, ch. 129), Senate Bill 538 (Rubio;

Stats. 2021, ch. 686), and Assembly Bill 277 (Valladares; Stats. 2021, ch. 457). The committee also recommends revoking one form, which will be combined with an existing form, and repealing rule 5.495 of the California Rules of Court, which has been codified by SB 320.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

1. Repeal rule 5.495 of the California Rules of Court;
2. Adopt five Judicial Council forms:
 - *City and State Where Children Lived* (form DV-105(A));
 - *Response to Request for Child Custody and Visitation Orders* (form DV-125);
 - *Prohibited Items Finding and Orders* (form DV-820);
 - *Noncompliance With Firearms and Ammunition Order, or Warrant* (form DV-830);
 - *Notice of Compliance Hearing for Firearms and Ammunition* (form DV-840/FL-840);
3. Revise 19 Judicial Council forms:
 - *Request for Domestic Violence Restraining Order* (form DV-100);
 - *Request for Child Custody and Visitation Orders* (form DV-105);
 - *Request for Order: No Travel With Children* (form DV-108), retitled as *Request for Orders to Prevent Child Abduction*;
 - *Notice of Court Hearing* (form DV-109);
 - *Temporary Restraining Order (Domestic Violence Prevention)* (form DV-110);
 - *Order on Request to Continue Hearing (Temporary Restraining Order)* (form DV-116);
 - *Response to Request for Domestic Violence Restraining Order* (form DV-120);
 - *How Can I Respond to a Request for Domestic Violence Restraining Order?* (form DV-120-INFO);
 - *Restraining Order After Hearing (Order of Protection)* (form DV-130);
 - *Child Custody and Visitation Order* (form DV-140);
 - *Order: No Travel With Children* (form DV-145), retitled as *Orders to Prevent Child Abduction*;
 - *Proof of Personal Service* (form DV-200);
 - *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO);
 - *How Do I Ask for a Temporary Restraining Order?* (form DV-505-INFO), retitled as *How to Ask for a Domestic Violence Restraining Order*;
 - *Get Ready for the Restraining Order Court Hearing* (form DV-520-INFO), retitled as *Get Ready for Your Restraining Order Court Hearing*;
 - *How to Enforce Your Restraining Order* (form DV-530-INFO);
 - *Proof of Firearms Turned In, Sold, or Stored* (form DV-800/JV-252), retitled and renumbered as *Receipt for Firearms, Firearm Parts, and Ammunition* (form DV-800/JV-270);

- *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-252-INFO), retitled and renumbered as *How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and Ammunition?* (form DV-800-INFO/JV-270-INFO);
- *Emergency Protective Order* (form EPO-001); and

4. Revoke one form: *Supervised Visitation and Exchange Order* (form DV-150).

The proposed repealed rule, and new, revised, or revoked forms are attached at pages 17–108.

Relevant Previous Council Action

Under the Domestic Violence Prevention Act, the Judicial Council must provide forms and instructions for use in domestic violence restraining order matters. The council has approved revisions to the forms when changes to the law required revisions and in response to suggestions made by the public, judicial officers, and court professionals. In 2022, forms DV-100, DV-105, DV-110, DV-120, DV-130, and DV-500-INFO were revised to reflect changes in the law to (1) add coercive control to the definition of abuse, and (2) include a request for and order by the court to find that debts incurred by the petitioner were the result of abuse. A number of additional changes were made to these same forms to make them more user-friendly and easier for self-represented litigants (SRLs) to complete.

Analysis/Rationale

This proposal is needed to implement six new laws. As most litigants in domestic violence restraining order proceedings represent themselves, it is particularly important for the council to act quickly to ensure that litigants are provided up-to-date information about available remedies and court procedures. A number of additional changes are recommended to make the forms more user-friendly.

SB 320

Effective January 1, 2022, SB 320 (Link A) codifies rule 5.495, *Firearm relinquishment procedures*, and provides additional requirements for courts to comply with when the court receives information that a restrained person has or may have firearms or ammunition in their possession or control.¹ Revisions to existing order forms are needed to allow the court to (1) give notice of a determination regarding possession of firearms or ammunition by the restrained person, (2) set a compliance review hearing, (3) order the clerk of the court to provide notice of noncompliance to law enforcement or the prosecuting agency, and (4) include an order for the restrained person to surrender ammunition.

Three new forms are also being proposed: forms DV-820, DV-830, and DV-840/FL-840. Form DV-820 would be used as an attachment to the temporary restraining order (form DV-110), continuance order (form DV-116), or any other family law order form, to make any of the findings and orders noted above. Form DV-830, would be used when the court is required to

¹ Family Code sections 6306, 6322.5, and 6389.

provide notice to law enforcement under Family Code section 6306 or notice to a prosecuting agency under Family Code section 6389(c)(4). Form DV-830 is a confidential form, as it could contain information from the California Law Enforcement Telecommunications System, also known as CLETS, such as criminal history information. Form DV-840/FL-840 is a notice of hearing and order form, to be used by the court when it is setting a hearing to review compliance with firearms and ammunition provisions subsequent to a restraining order after hearing being issued.

In response to comments received, the committee also recommends listing “guns” as a parenthetical to firearms, rather than listing guns as a separate item. For example, on form DV-110, at item 5, the new heading for the firearms relinquishment order would be “No Firearms (Guns)...” rather than “No Guns, Other Firearms...” Forms for the respondent have also been revised to include firearm parts and ammunition as items that must be surrendered, in addition to firearms.²

AB 1621

Effective on June 30, 2022 (Link B), AB 1621 adds a definition of “firearm” under the Domestic Violence Prevention Act that includes firearm parts, specifically receivers, frames, and “firearm precursor parts” as defined under Penal Code section 16531(a). The change is intended to include “ghost guns” (unserialized and untraceable firearms that can be bought online and assembled at home) in the items that restrained people cannot possess and must surrender.³ This means that a restrained person may not have these parts or homemade firearms, for the duration of the order. AB 1621 was enacted as an urgency statute, and therefore went into effect immediately upon approval by the Governor on June 30, 2022. AB 1621 superseded AB 1057 (Petrie-Norris; Stats. 2021, ch. 682), which would have also added firearm parts to the definition of firearm under the Family Code. A proposal to implement AB 1057 was included as part of this proposal that was released for public comment on April 8, 2022. The committees believe that the same changes to the forms needed to implement AB 1057 would be appropriate to implement AB 1621.

This new definition of firearm will also apply to gun violence, juvenile, other civil, and criminal restraining orders. Because this bill impacts several protective order forms series, this committee worked with the Civil and Small Claims Advisory Committee to harmonize the changes to the extent possible. Both committees, and the Criminal Law Advisory Committee, recommend referring to receivers, frames, and unfinished receivers and frames as “firearm parts” rather than “firearms” or “firearm precursor parts.” The committees also propose using the nomenclature “ghost guns” on the information forms.

² See form DV-120, item 26, page 1, of form DV-120-INFO, and DV-800/JV-270, item 3.

³ Assem. Com. On Public Safety Rep. on Assem. Bill No. 1621 (2021-2022 Reg. Sess.) as amended March 24, 2022 pp. 5-7.

Proof of Firearms Turned In, Sold, or Stored (form DV-800/JV-252) would be revised to include the new provisions about firearm parts from AB 1621 and the additional requirement to surrender ammunition resulting from SB 320. The form would also be renamed *Receipt for Firearms, Firearm Parts, and Ammunition* and renumbered as form DV-800/JV-270. Similar revisions would be made to the current *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-252-INFO), including renaming the form to *How Do I Turn In, Sell, or Store Firearms, Firearm Parts, and Ammunition?* and renumbering it to DV-800-INFO/JV-270-INFO.

For form DV-800/JV-270, the committees propose reformatting the sections completed by law enforcement and licensed gun dealers.⁴ The changes to these sections would allow the agency or dealer to attach a document, listing some or all items surrendered. While somewhat different from the format that was circulated, this change is based on feedback from law enforcement and a licensed gun dealer that in most, if not all situations, completing a separate non-Judicial Council form is always required when providing the receipt. For law enforcement, each agency likely has its own property receipt form that must be completed. And for licensed gun dealers, the Department of Justice requires dealers to complete and submit a specific form anytime they receive a firearm. Making it clear on the Judicial Council form that a separate document can be used to list surrendered items will make it easier for law enforcement and licensed gun dealers to complete this form. In the event that an officer or a licensed gun dealer wants to list some or all surrendered items directly on form DV-800/JV-270, they can do so at item 6. If items are listed at item 6, the officer or dealer should indicate the action taken for each item surrendered (i.e., firearm stored, sold to dealer, or to be destroyed by law enforcement agency). This additional information may be helpful to the court, especially when parties have ongoing matters like child custody.

SB 374

Effective January 1, 2022, SB 374 (Link C) adds “reproductive coercion” as a form of coercive control under Family Code section 6320. To implement SB 374, the committee recommends revising the request form, two order forms, and an information form to include examples of reproductive coercion.⁵ An example of the new language and how it would appear on the temporary restraining order is provided below:

⁴For DV-800/JV-270, item 4 for law enforcement officer, and item 5 for licensed gun dealer.

⁵ See form DV-100, item 5; form DV-110, item 7; form DV-130, item 8; and page 2 of form DV-500-INFO.

9 **Order to Not Abuse** Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to related health information.

SB 24

Effective January 1, 2023, SB 24 (Link D) would allow the court, when granting a domestic violence restraining order, to restrict a parent's access to certain information regarding their child, including health and school records. It would also require providers of health care, daycare, and educational or extracurricular activities to have protocols in place to properly safeguard the child's information when these orders are issued. To implement SB 24, the committee proposes adding an item on the child custody and visitation request form and a parallel item on the order form.⁶ Additionally, the order form would provide information directed at the provider, notifying the provider of their obligation under the new law to refrain from releasing records after the court has issued the order. Information was also added to form DV-530-INFO, to direct the petitioner of the restraining order to provide a copy of the order to providers ordered to safeguard the child information. An example of the new language on order form DV-140 is provided below:

⁶ See form DV-105, item 7, and form DV-140, item 5.

5 **Stop Access to Children's School, Health, and Other Information**

a. The person in (2) must not access or have access to the records or information for:

All the children listed in (3).

Only the children listed here (names):

b. From the following (check all that apply):

Medical, dental, and mental health providers

School and daycare providers

Extracurricular activity providers, including summer camps and sports

Child's employers (including volunteer and unpaid positions)

Other (describe):

! If you are a provider listed above, you must not release information or records regarding the children listed in (5)a to the person in (2).

SB 538

Effective January 1, 2022, SB 538 (Link E) provides that parties and witnesses in a domestic violence or gun violence restraining order proceeding may appear remotely on a petition for a restraining order. It also provides that courts must provide e-filing as an option for filing domestic violence and gun violence restraining orders effective July 1, 2023. Revisions to a number of existing forms are recommended to provide notice of the option to appear remotely.⁷ In addition, form DV-505-INFO directs the person seeking a restraining order to check with their local court if they are interested in e-filing their request.

AB 277

Assembly Bill 277 (Link F) requires the council to include information about the California Secretary of State's Safe at Home program on form DV-500-INFO, by January 1, 2023. The following information has been added to form DV-500-INFO, on page 3: "If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe At Home that you can apply for. It is a free program that would help you keep your address private. To learn more about the program, go to: <https://sos.ca.gov/registries/safe-home>. Note that it may take several weeks to be approved." A Safe at Home address was also added as a potential address on page 1 of the request (form DV-100) and the response (form DV-120).

Other changes to improve the forms

Forms DV-105 and DV-140

The committee recommends a number of changes to the Child Custody and Visitation forms. In the proposal circulated for comment, the committee proposed new layouts for the custody and visitation items, and sought specific comment on whether these new layouts would be easier for SRLs to understand and complete. Most commenters who responded to these questions indicated that the new layouts were helpful and easier to understand. One commenter stated that the new

⁷ See form DV-109, item 3; form DV-116, item 4; page 2 of form DV-120-INFO; page 3 of form DV-505-INFO; and page 1 of form DV-520-INFO.

layouts are even easier for attorneys. The committee agrees and recommends adopting the new layouts, reflected at items 9, 12b, and 13b of form DV-105.

During the comment period, the draft version of form DV-105 that was included in the proposal circulated for comment was user-tested. Feedback showed some confusion with the organization of the form, specifically how the different sections (no visitation order vs. travel restrictions) relate to one another. One user also expressed confusion over presenting requests in the first person (e.g., “I ask that the person in 2 have no visitation with the children”). Based on the feedback from user-testing, the committee has made several further changes to form DV-105, including reorganizing the items and asking questions in a yes/no format rather than stating the requests in the first person.

The orders on form DV-140 would parallel the requests on form DV-105. Because form DV-140 would include supervised visitation and exchange orders to mirror form DV-105, form DV-150 would no longer be needed. As a result, the committee recommends revoking form DV-150.

New Form DV-125

The committee proposes a new attachment form, to allow the proposed restrained person to respond to any child custody and visitation orders requested by the petitioner. This new form would be a mandatory form and if completed would be attached to the response form (form DV-120).

New Form DV-105(A)

This new form would be used by the petitioner to list the residence history for children who have not lived together during the last five years. This would be different than form DV-105 which only provides space for the petitioner to list the residence history for children who have lived together for the last five years. Form DV-105(A) could also be used as an attachment to response form DV-125, if the respondent does not agree with the residence history for children listed by the petitioner.

Priority of Enforcement sections on forms DV-110 and DV-130

Changes were made to the Priority of Enforcement language on the temporary restraining order and restraining order after hearing.⁸ This language acts as an instruction to law enforcement in the event that there are conflicting restraining orders in effect at the same time. This committee worked with other advisory committees on this language to ensure that the instructions are consistent across restraining and protective order forms. One commenter noted that this section, while directed at law enforcement, would also be helpful for litigants to know. In a future cycle, the committee will consider whether additional changes to this section could be made to make the information more accessible to self-represented litigants.

⁸ See form DV-110, page 9, and form DV-130, page 10.

EPO-001

In addition to including revisions to the firearms language, the instructions on the second page have been reformatted so that any content translated into Spanish now appears on the right side of the form, while the English content appears on the left. This committee recommends this format as easier to read for parties with limited English proficiency, and it parallels other plain language bi-lingual forms recently approved by the council.

Information forms

Several of the information forms have also been significantly revised to improve usability. Forms DV-120-INFO and DV-505-INFO are now organized into “parts” to reflect the different parts of the court process (e.g., filing forms, preparing for court date). Separating the entire process into pieces is a strategy often used by self-help centers and other providers to make the information more digestible for SRLs. The committee believes these changes will make the content easier to understand.

Policy implications

In addition to implementing legislative changes, this recommendation helps implement Goal I, “Access, Fairness, and Diversity,” of the Judicial Council’s strategic plan by helping to make forms easier to complete and understand for SRLs. Additionally, changes to the forms were based on user-testing and feedback from service providers, consistent with Goal IV of the strategic plan to provide the highest quality of justice and service to the public.

Comments

This proposal was released for public comment from April 8 through May 13, 2022. Ten commenters responded to the proposal. One agreed with the proposal, four agreed if modified, and five did not indicate a position; no commenters disagreed with the proposal. Commenters were the Superior Courts of Orange, Riverside, and San Diego Counties; the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; the California Partnership to End Domestic Violence; the Family Violence Appellate Project; the Giffords Law Center to Prevent Gun Violence; the Harriett Buhai Center for Family Law; the Orange County Bar Association; and one individual.

The committee thanks commenters for taking the time to respond to this proposal. In general, commenters supported many of the changes. Some of the more significant comments are provided below, including the responses to specific comments sought by the committee. All comments and the committee’s responses are provided in the attached chart of comments at pages 109–171.

Use of term “prohibited items”

The committee received a suggestion to not use the term “prohibited items” on the order forms to describe firearms, firearm parts, and ammunition. The committee considered this suggestion but rejected it. Because of SB 320, there are a number of additional orders that must be included related to firearms, firearm parts, and ammunition. Using the term “prohibited items” makes it easier to explain all the requirements that the restrained person must follow. The committee

believes that using the term “prohibited items” does not create any ambiguity on what the term includes, as the order clearly states what the term includes.⁹

Method of notice to law enforcement and prosecuting agency

Another comment relating to SB 320 was a concern with courts notifying law enforcement or prosecuting agency by a method that would not be immediate, such as by mail. The committee agreed with this comment, and recommends that courts provide notice quickly such as by fax, email, or other electronic means.¹⁰ The committee believes that this change will not be an undue burden as many courts already have a process for notify law enforcement of a restraining order (e.g., sending restraining order to law enforcement to enter restraining order into the CLETS).

Additional information about child custody

Commenters suggested that information involving custody and visitation be included either on form DV-105 or on an information form. This could include information about the requirements under Family Code section 3044, supervised visitation and exchanges, and impact of noncompliance with firearm relinquishment orders on custody. The committee will consider creating a new information form specifically on issues related to child custody and visitation in a future cycle.

The committee sought specific comment on a number of issues. Commenters’ responses are summarized below.

Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)?

All commenters who responded indicated that it would be helpful or relevant for courts to have this information. Based on feedback from law enforcement, the committee recommends changing “seized” to “to be destroyed.” In other words, law enforcement can either store or destroy firearms or ammunition, while licensed gun dealers can store or buy these items.

Are the new layouts for the child custody and visitation sections easier for SRLs to understand and complete?

As stated above, most commenters who responded indicated “yes.” The committee agrees and recommends using the new layouts on forms DV-105 and DV-140.

Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example?

Most commenters believed that the proposed example was sufficient, while two commenters suggested changes to the example. The committee accepted both suggested revisions so that the example now reads, “tried to control/interfere with your contraception, birth control, pregnancy, or access to health information.”

⁹ See form DV-110, item 5b, and form DV-130, item 7b.

¹⁰ See form DV-830, page 2.

Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms?

Some commenters answered “yes” while another commenter voiced concern over the language being too difficult or detailed for parties to understand. Senate Bill 654 provides an affirmative duty on the court to provide its reasons for granting unsupervised visits to a person accused of abuse, either on the record or in writing. As such, the committee proposes to include space on order form DV-140 for the judicial officer to indicate whether it is providing the information orally on the record, or on the form itself.¹¹ The committee also recommends adding a similar item under the custody section for the judge if sole or joint custody is granted to the restrained person.¹²

Alternatives considered

New forms and changes to the existing forms are necessary to conform to newly enacted laws. The committee did not consider taking no action as this would result in inaccurate and incomplete forms.

One change contemplated by the committee was to combine existing form DV-105, *Request for Child Custody and Visitation Orders*, and form DV-108, *Request for Order: No Travel With Children*, into one form. The committee believed that combining these two forms would give SRLs better access to the additional remedies to prevent child abduction (e.g., posting a bond, notifying consulate) combined on this form. As stated above, the proposed form DV-105 circulated for comment was user-tested. Results showed that combining the additional child abduction orders was confusing to users. For example, one user noted that the “no travel with children” order seemed sufficient to prevent against child abduction and could not understand why the other orders to prevent child abduction would be needed. Users also spent about 30 minutes to complete the one form. Based on user-testing results, the committee no longer recommends combining these two forms. The committee does recommend some minor changes to forms DV-108 and DV-145 to make the forms clearer and easier to understand, including retitling form DV-108 to *Request for Orders to Prevent Child Abduction* and retitling form DV-145 to *Orders to Prevent Child Abduction*. These new titles better describe the orders contained on these two forms.

To implement the new requirement to notify a prosecuting agency of non-compliance with firearms and ammunition restrictions, the committee considered including on the order forms that the court has up to two days to provide notice.¹³ The committee rejected this and recommends the alternative of a simpler order which states that the court will immediately notify the prosecuting agency of the non-compliance. While courts still have up to two days to provide notice under Family Code section 6389(c)(4), the committee believes that the language proposed

¹¹ See form DV-140, item 10a.

¹² See form DV-140, item 6c.

¹³ Family Code section 6389(c)(4).

is easier to understand and effectively communicates to the restrained person that notification will happen quickly.

Fiscal and Operational Impacts

Commenting courts noted anticipated costs for implementing new and newly revised forms, including staff and judicial officer training, changes to docket codes in case management systems, and updates to paper forms packets, online forms, and tools. Two courts and the Joint Rules Subcommittee indicated that three months for implementation would not be sufficient. One court responded that three months would be sufficient, provided that the final forms are available three months before January 1, 2023. Given the importance and safety issues associated with the new laws, specifically Senate Bill 320, the committee does not recommend delaying implementation of this proposal.

Attachments and Links

1. Cal. Rules of Court, rule 5.495, at pages 13–16
2. Forms DV-100, DV-105, DV-105(A), DV-108, DV-109, DV-110, DV-116, DV-120, DV-120-INFO, DV-125, DV-130, DV-140, DV-145, DV-150, DV-200, DV-500-INFO, DV-505-INFO, DV-520-INFO, DV-530-INFO, DV-800/JV-270, DV-800-INFO/JV-270-INFO, DV-820, DV-830, DV-840/FL-840, EPO-001, at pages 17–108
3. Chart of comments, at pages 109–171
4. Link A: Senate Bill 320,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB320
5. Link B: Assembly Bill 1621,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1621
6. Link C: Senate Bill 374,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB374
7. Link D: Senate Bill 24,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB24
8. Link E: Senate Bill 538,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB538
9. Link F: Assembly Bill 277,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB277

Rule 5.495 of the California Rules of Court will be repealed, effective January 1, 2023, to read:

1 **Chapter 4. Protective Orders [Repealed]**

2
3 **Rule 5.495. Firearm relinquishment procedures [Repealed]**

4
5 **(a) — Application of rule**

6
7 This rule applies when a family or juvenile law domestic violence protective order
8 as defined in Family Code section 6218 or Welfare and Institutions Code section
9 213.5 is issued or in effect.

10
11 **(b) — Purpose**

12
13 This rule addresses situations in which information is presented to the court about
14 firearms and provides the court with options for appropriately addressing the issue.
15 This rule is intended to:

16
17 (1) — Assist courts issuing domestic violence protective orders in determining
18 whether a restrained person has a firearm in or subject to his or her
19 immediate possession or control.

20
21 (2) — Assist courts that have issued domestic violence protective orders in
22 determining whether a restrained person has complied with the court's order
23 to relinquish, store, or sell the firearm under Family Code section 6389(c).

24
25 **(c) — Firearm determination**

26
27 When relevant information is presented to the court at any noticed hearing that a
28 restrained person has a firearm, the court must consider that information to
29 determine, by a preponderance of the evidence, whether the person subject to a
30 protective order as defined in Family Code section 6218 or Welfare and Institutions
31 Code section 213.5 has a firearm in or subject to his or her immediate possession or
32 control in violation of Family Code section 6389.

33
34 **(d) — Determination procedures**

35
36 (1) — In making a determination under this rule, the court may consider whether the
37 restrained person filed a firearm relinquishment, storage, or sales receipt or if
38 an exemption from the firearm prohibition was granted under Family Code
39 section 6389(h).

40
41 (2) — The court may make the determination at any noticed hearing when a
42 domestic violence protective order is issued, at a subsequent review hearing,

1 or at any subsequent family or juvenile law hearing while the order remains
2 in effect.

3
4 (3) — If the court makes a determination that the restrained person has a firearm in
5 violation of Family Code section 6389, the court must make a written record
6 of the determination and provide a copy to any party who is present at the
7 hearing and, upon request, to any party not present at the hearing.

8
9 **(e) — Subsequent review hearing**

10
11 (1) — When presented with information under (c), the court may set a review
12 hearing to determine whether a violation of Family Code section 6389 has
13 taken place.

14
15 (2) — The review hearing must be held within 10 court days after the noticed
16 hearing at which the information was presented. If the restrained person is not
17 present when the court sets the review hearing, the protected person must
18 provide notice of the review hearing to the restrained person at least 2 court
19 days before the review hearing, in accordance with Code of Civil Procedure
20 414.10, by personal service or by mail to the restrained person's last known
21 address.

22
23 (3) — The court may for good cause extend the date of the review hearing for a
24 reasonable period or remove it from the calendar.

25
26 (4) — The court must order the restrained person to appear at the review hearing.

27
28 (5) — The court may conduct the review hearing in the absence of the protected
29 person.

30
31 (6) — Nothing in this rule prohibits the court from permitting a party to appear by
32 telephone under California Rules of Court, rule 5.9.

33
34 **(f) — Child custody and visitation**

35
36 (1) — If the court determines that the restrained person has a firearm in violation of
37 Family Code section 6389, the court must consider that determination when
38 deciding whether the restrained person has overcome the presumption in
39 Family Code section 3044.

40
41 (2) — An order for custody or visitation issued at any time during a family law
42 matter must be made in a manner that ensures the health, safety, and welfare
43 of the child and the safety of all family members, as specified in Family Code

1 section 3020. The court must consider whether the best interest of the child,
2 based on the circumstances of the case, requires that any visitation or custody
3 arrangement be limited to situations in which a third person, specified by the
4 court, is present, or that visitation or custody be suspended or denied, as
5 specified in Family Code section 6323(d).

6
7 (3) — An order for visitation issued at any time during a juvenile court matter must
8 not jeopardize the safety of the child, as specified in Welfare and Institutions
9 Code section 362.1.

10
11 **(g) — Other orders**

12
13 (1) — The court may consider a determination that the restrained person has a
14 firearm in violation of Family Code section 6389 in issuing:

15
16 (A) — An order to show cause for contempt under section 1209(a)(5) of the
17 Code of Civil Procedure for failure to comply with the court’s order to
18 surrender or sell a firearm; or

19
20 (B) — An order for money sanctions under section 177.5 of the Code of Civil
21 Procedure.

22
23 (2) — This rule should not be construed to limit the court’s power to issue orders it
24 is otherwise authorized or required to issue.

25
26 **Advisory Committee Comment**

27
28 When issuing a family or juvenile law domestic violence protective order as defined in Family
29 Code section 6218 or Welfare and Institutions Code section 213.5, ex parte or after a noticed
30 hearing, the court is required to order a restrained person “to relinquish any firearm in [that
31 person’s] immediate possession or control or subject to [that person’s] immediate possession or
32 control.” (Fam. Code, § 6389(c)(1).) Several mandatory Judicial Council forms — *Temporary*
33 *Restraining Order* (form DV 110), *Restraining Order After Hearing* (form DV 130), and *Notice*
34 *of Hearing and Temporary Restraining Order — Juvenile* (form JV 250) — include mandatory
35 orders in bold type that the restrained person must sell to or store with a licensed gun dealer or
36 turn in to a law enforcement agency any guns or other firearms within his or her immediate
37 possession or control within 24 hours after service of the order and must file a receipt with the
38 court showing compliance with the order within 48 hours of receiving the order. California law
39 requires personal service of the request for and any temporary protective order at least five days
40 before the hearing, unless the court issues an order shortening time for service. Therefore, by the
41 date of the hearing, the restrained person should have relinquished, stored, or sold his or her
42 firearms and submitted a receipt to the court.

1 Courts are encouraged to develop local procedures to calendar firearm relinquishment review
2 hearings for restrained persons.

3
4 ~~Section (f) of this rule restates existing law on the safety and welfare of children and family~~
5 ~~members and recognizes the safety issues associated with the presence of prohibited firearms.~~

6
7 Although this rule does not require the court to compel a restrained person to testify, the court
8 may wish to advise a party of his or her privilege against self incrimination under the Fifth
9 Amendment to the United States Constitution. The court may also consider whether to grant use
10 immunity under Family Code section 6389(d).

Clerk stamps date here when form is filed.

Instructions

To ask for a domestic violence restraining order, you will need to complete this form and other forms (see page 12 for list of forms). If this case includes sensitive information about a minor child (under 18 years old), see form DV-160-INFO, Privacy Protection For a Minor (Person Under 18 Years Old) Domestic Violence Prevention for more information on how to protect the child's information.

DRAFT-8.12.22
Not approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Person Asking for Protection

a. Your name: _____

b. Your age: _____

c. Address where you can receive court papers

(This address will be used by the court and by the person in 2 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

d. Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 2 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Telephone: _____ Fax: _____

Email Address: _____

e. Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

2 Person You Want Protection From

a. Full name: _____

b. Age (give estimate if you do not know exact age): _____

c. Date of birth (if known): _____

d. Gender: [] M [] F [] Nonbinary

e. Race: _____

This is not a Court Order.



3 Your Relationship to the Person in 2

(If you do not have one of these relationships with the person in 2, do not complete the rest of this form. You may be eligible for another type of restraining order. Learn more at www.courts.ca.gov/selfhelp-abuse.htm.)

(Check all that apply)

- a. We have a child or children together
(names of children): _____
- b. We are married or registered domestic partners.
- c. We used to be married or registered domestic partners.
- d. We are dating or used to date.
- e. We are or used to be engaged to be married.
- f. We are related. The person in 2 is my *(check all that apply)*:
 - Parent, stepparent, or parent-in-law
 - Brother, sister, sibling, **step-sibling**, or sibling in-law
 - Child, stepchild, or legally adopted child
 - Grandparent, **step-grandparent**, or grandparent-in-law
 - Child's spouse
 - Grandchild, **step-grandchild**, or grandchild-in-law
- g. We live together or used to live together. *(If checked, answer question below)*:
Have you lived together with the person in 2 as a family or household (more than just roommates)?
 Yes No *(If no, you do not qualify for this kind of restraining order unless you checked one of the other relationships listed above.)*

4 Other Restraining Orders and Court Cases

- a. Are there any restraining orders currently in place or that have expired in the last six months (examples: Did the police give you a restraining order that lasts a few days? Do you have one from the criminal court?)
 No
 Yes *(If yes, give information below and attach a copy if you have one.)*
(1) *(date of order):* _____ *(date it expires):* _____
(2) *(date of order):* _____ *(date it expires):* _____
- b. Are you involved in any other court case with the person in 2?
 No
 Yes *(If you know, list where the case was filed (city, state, or tribe), the year it was filed, and case number.)*
 Custody _____
 Divorce _____
 Juvenile *(child welfare or juvenile justice):* _____
 Guardianship _____
 Criminal _____
 Other *(what kind of case?):* _____

This is not a Court Order.



Describe Abuse

In this section, explain how the person in (2) has been abusive. The judge will use this information to decide your request. Listed below are some examples of what "abuse" means under the law. **It is not a complete list** of all examples of abuse. Give information on any incident that you believe was abusive.

- made repeated unwanted contact with you
- tracked, controlled, or blocked your movements
- kept you from getting food or basic needs
- isolated you from friends, family, or other support
- made threats based on actual or suspected immigration status
- made you do something by force, threat, or intimidation
- stopped you from accessing or earning money
- tried to control/interfere with your contraception, birth control, pregnancy, or access to health information
- harassed you
- hit, kicked, pushed, or bit you
- injured you or tried to
- threatened to hurt or kill you
- sexually abused you
- abused a pet or animal
- destroyed your property
- choked or strangled you
- abused your children

5 Most recent abuse

- a. Date of abuse (give an estimate if you don't know the exact date): _____
- b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____
- c. Did the person in (2) use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____
- d. Did the person in (2) cause you any emotional or physical harm?
 No Yes (If yes, describe harm): _____
- e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in (4).)
- f. Give more details about how the person in (2) was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.
- _____
- _____
- _____
- _____
- _____
- _____
- g. How often has the person in (2) abused you like this?
 Just this once 2-5 times Weekly Other: _____
- Give dates or estimates of when it happened, if known:
- _____
- _____

This is not a Court Order.



6 Has the person in 2 abused you in a different way from the abuse you described in 5? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in 2 use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in 2 cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in 4.)

f. Give more details about how the person in 2 was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in 2 abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

This is not a Court Order.



7 Is there other abuse by the person in **2** that you want the judge to know about? If yes, describe below.

a. Date of abuse (give an estimate if you don't know the exact date): _____

b. Did anyone else hear or see what happened on this day?
 I don't know No Yes (If yes, give names): _____

c. Did the person in **2** use or threaten to use a gun or other weapon?
 No Yes (If yes, describe gun or weapon): _____

d. Did the person in **2** cause you any emotional or physical harm?
 No Yes (If yes, describe harm):

e. Did the police come? I don't know No Yes (If the police gave you a restraining order, list it in **4**.)

f. Give more details about how the person in **2** was abusive on this day. Details can include what was said, done, or sent to you (examples: text messages, emails, or pictures), how often something happened, etc.

g. How often has the person in **2** abused you like this?
 Just this once 2-5 times Weekly Other: _____
Give dates or estimates of when it happened, if known:

Check this box if you need more space to describe the abuse. You can use [form DV-101, Description of Abuse](#), and turn it in with this form. You can also use a separate sheet of paper, write "Describe Abuse" abuse at the top, and turn it in with this form.

This is not a Court Order.



8 Other Protected People

Do you want the restraining order to protect your children, family, or someone you live with?

- a. No
- b. Yes *(If yes, complete the section below):*

(1) <u>Full name</u>	<u>Age</u>	<u>Relationship to you</u>	<u>Lives with you?</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Check this box if you need to list more people. Use a separate piece of paper and write "DV-100, Other Protected People" at the top. Turn it in with this form.

(2) Why do these people need protection?

9 Does Person in (2) Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver, frame, or unfinished receiver or unfinished frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes *(If you have information, complete the section below.)*

(1) Describe firearms (guns), firearm parts, or ammunition	How many or what amount?	Location, if known
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different.
Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

10 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not do the following things to me or anyone listed in **(8)**:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace. (For more information on what "disturbing the peace" means, read form DV-500, *Can A Domestic Violence Restraining Order Help Me?*)

11 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or anyone listed in **(8)**.

12 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from:

(Check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Me. | <input type="checkbox"/> My vehicle. | <input type="checkbox"/> My children's school or childcare. |
| <input type="checkbox"/> My home. | <input type="checkbox"/> My school. | <input type="checkbox"/> Other (please explain): _____ |
| <input type="checkbox"/> My job or workplace. | <input type="checkbox"/> Each person in (8) . | _____ |

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet) Other (give distance in yards): _____

c. Do you and the person in **(2)** live together or live close to each other?

- No Yes (If yes, check one):
- Live together (If you live together, you can ask that the person in **(2)** move out in **(13)** .)
- Live in the same building, but not in the same home
- Live in the same neighborhood
- Other (please explain): _____

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- No Yes (If yes, check all that apply):
- Work together at (name of company): _____
- Go to the same school (name of school): _____
- Other (please explain): _____

This is not a Court Order.



13 **Order to Move Out**

a. I ask the judge to order the person in **(2)** to move out of the home, located at:

(Give address): _____

b. I have a right to live at this address because:

(Check all that apply)

- I own the home.
- I have lived at this address for _____ years, _____ months.
- My name is on the lease.
- I pay for some or all the rent or mortgage.
- I live at this address with my child(ren).
- Other (please explain): _____

14 **Other Orders**

(Describe any additional orders you want the judge to make to keep you, your children, or the people in **(8)** safe.):

15 **Child Custody and Visitation**

(Check this box if you have a child with the person in **(2)** and want the judge to make or change a child custody or visitation order. **You must fill out [form DV-105, Child Custody and Visitation Orders](#), and attach it to this form.**)

Orders that you can request on form DV-105 include:

- Child custody
- No visits with your children
- Stop person in **(2)** from accessing your child's school or medical information
- Supervised (monitored) visits with your children
- Unsupervised (unmonitored) visits with your children

This is not a Court Order.



16 **Protect Animals**

a. (You may ask the court to protect your animals, your children’s animals, or the person in ②’s animals.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in ② to:

(Check all that apply)

- (1) Stay away from the animals by at least: 100 yards (300 feet) Other (number of yards): _____
- (2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) Give me sole possession, care, and control of the animals because (check all that apply):
 - Person in ② abuses the animals. I take care of these animals.
 - I purchased these animals. Other (please explain): _____

17 **Control of Property**

a. I ask the judge to give **only me** temporary use, possession, and control of the property listed here (describe):

b. Explain why you want control of the property you listed:

18 **Health and Other Insurance**

I ask the judge to order the person in ② to **not** make any changes to any insurance or other coverage for me, the person in ②, or our children, including not being allowed to cancel, cash, borrow against, transfer, dispose of, or change the beneficiaries for the insurance.

19 **Record Communications**

I ask the judge to allow me to record calls or communications the person in ② makes to me, when those calls or communications violate this restraining order.

This is not a Court Order.



20 **Property Restraint** *(only if you are married or a registered domestic partner with the person in 2.)*

I ask the judge to order the person in 2 not to borrow against, sell, hide, or get rid of or destroy any possessions or property, except in the usual course of business or for necessities of life. I also ask the judge to order the person in 2 to notify me of any new or big expenses and to explain them to the court.

21 **Extend My Deadline to Give Notice to Person in 2**

(Usually, the judge will give you about two weeks to give notice, or to "serve" the person in 2 of your request. If you need more time to serve, the judge may be able to give you a few extra days.)

I ask the judge to give me more time to serve the person in 2 because *(explain why you need more time)*:

22 **Pay Debts (Bills) Owed for Property**

(If you want the person in 2 to pay any debts owed for property, list them and explain why. The amount can be for the entire bill or only a portion. Some examples include rent, mortgage, car payment, etc.)

a. I ask the judge to order the person in 2 to make these payments while the restraining order is in effect:

- (1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
- (3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

Explain why you want the person in 2 to pay the debts listed above:

b. **Special decision (finding) by the judge if you did not agree to the debt** *(optional)*

(If you did not agree to the debt or debts listed above, you can ask the judge to decide (find) that one or more debts was made without your permission and resulted from the person in 2's abuse. This may help you defend against the debt if you are sued in another case.)

Do you want the judge to make this special decision (finding)?

No Yes *(If yes, answer the questions below.)*

(1) Which of the debts listed above resulted from the abuse? *(check all that apply)*:

- a(1) a(2) a(3)

(2) Do you know how the person in 2 made the debt or debts?

- No Yes

(If yes, explain how the person in 2 made the debt or debts):

This is not a Court Order.



Orders That You Want a Judge to Make at Your Court Date

Below is a list of orders that a judge cannot make right away but can make at your court date in a few weeks. The person in (2) must be notified of your court date before the judge can consider making any of the orders listed below. Check all the orders that you want the judge to make at your court date.

(23) Pay Expenses Caused by the Abuse

I ask the judge to order the person in (2) to pay for things **caused directly** by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). Bring proof of these amounts to your court date.

Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____
Pay to: _____	For: _____	Amount: \$ _____

(24) Child Support *(this only applies if you have a minor child with the person in (2))*

(Check all that apply)

- a. I do not have a child support order and I want one.
- b. I have a child support order and I want it changed *(attach a copy if you have one)*.
- c. I now receive or have applied for TANF, Welfare, or CalWORKS.

(25) Spousal Support *(this only applies if you are married or a registered domestic partner with person in (2))*

I ask the judge to order the person in (2) to give me financial assistance.

(26) Lawyer's Fees and Costs

I ask that the person in (2) pay for some or all of my lawyer's fees and costs.

(27) Batterer Intervention Program

I ask the judge to order the person listed in (2) to go to a 52-week batterer intervention program. (The goal of a batterer's intervention program is to stop abuse. There are weekly classes to teach accountability, abuse effects, and gender roles. If ordered to complete this program, the person in (2) would have to show proof to the judge that they enrolled and completed the program.)

(28) Transfer of Wireless Phone Account

(If the person in (2) holds the rights to your cell phone account, you can ask the judge to transfer your number or your child's number to you. This means you will be financially responsible for these accounts. If you want to have control over a mobile device, like a cell phone, make this request at (17).)

I ask the judge to order the wireless service provider to transfer the billing responsibility and rights to the wireless phone numbers listed below to me because the account currently belongs to the person in (2):

- a. My number Number of child in my care (including area code): _____
- b. My number Number of child in my care (including area code): _____

This is not a Court Order.

Automatic Orders if the Judge Grants Restraining Order**29 No Firearms (Guns), Firearm Parts, or Ammunition**

If the judge grants you a restraining order, the person in (2) must turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control. The person in (2) would also be prohibited from buying firearms (guns), firearm parts, and ammunition.

30 Cannot Look for Protected People

If the judge grants you a restraining order, the person in (2) will not be allowed to look for the address or location of any person protected by the restraining order, unless the court finds good cause not to make this order.

31 Additional pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

32 Your signature

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

Date: _____

Type or print your name

Sign your name

33 Your lawyer's signature (if you have one)

Date: _____

Lawyer's name

Lawyer's signature

Your Next Steps**1 You must complete at least three additional forms:**

- [Form DV-110](#), *Temporary Restraining Order (only items 1, 2 and 3)*
- [Form DV-109](#), *Notice of Court Hearing (only items 1 and 2)*
- [Form CLETS-001](#), *Confidential CLETS Information*
- **If you are asking for child custody and visitation orders**, you must complete [form DV-105](#), *Request for Child Custody and Visitation Orders*, and [form DV-140](#), *Child Custody and Visitation Order*.

2 Turn in your completed forms to the court. Find out when your forms will be ready for pick up.

3 Once you get your forms back from the court, have someone "serve" a copy of all forms on the person in (2). The sheriff or marshal can do this for free. Learn more about how to "serve" your papers and prepare for your court date: <https://selfhelp.courts.ca.gov/sheriff-serves-your-request-restraining-order>.

4 If you are asking for child support, spousal support, or lawyer's fees, you must also complete [form FL-150](#), *Income and Expense Declaration*. If you are only asking for child support (item 23), you may be eligible to fill out a simpler form, FL-155. Read form DV-570 to see if you are eligible. Turn in your completed form to the court before your court date. You must also have someone mail or personally deliver a copy to the person in (2).

This is not a Court Order.

DV-105

Request for Child Custody and Visitation Orders

Case Number: _____

This form is attached to form DV-100. (Use this form to request orders for children you have with the person in ②.)

① Your Information

Name: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

② Person You Want Protection From

Name: _____

Relationship to children: Parent Legal Guardian Other (describe): _____

③ Children Under 18 Years Old (list from oldest to youngest)

a. Name: _____	Date of birth: _____
b. Name: _____	Date of birth: _____
c. Name: _____	Date of birth: _____
d. Name: _____	Date of birth: _____

(Check here if you need more space. Write "DV-105, Children" at the top and attach it to this form.)

④ City and State Where Children Lived

a. Have all the children listed in ③ lived together for the last five years?

Yes (Complete section 4b.)

No (If no, do not complete the section below. Instead, use form DV-105(A)).

b. List where the child or children have lived for the last five years. Start with their current location.

Children lived with (check all that apply):

<u>Dates (month/year)</u>	<u>City, State, and Tribal Land</u>	<u>Me</u>	<u>Person in ②</u>	<u>Other*</u>
---------------------------	-------------------------------------	-----------	--------------------	---------------

From: _____ To present _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
------------------------------	--------------------------	--------------------------	--------------------------

Check here if you want to keep your current location private. List the state only.

From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

From: _____ Until: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
--------------------------	--------------------------	--------------------------	--------------------------

Other* (relationship to child): _____

This is not a Court Order.



5 History of Court Cases Involving Your Children

a. Do you know about any other case involving any child listed in ③?

- No
- Yes *(If yes, complete section below.)*

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

- Custody _____
- Divorce _____
- Juvenile Court *(child welfare, juvenile justice)* _____
- Guardianship _____
- Criminal _____
- Other *(example: child support case)* _____

b. Is there a current order for custody or visitation in effect?

- No
- Yes *(Complete the section below.)*

What did the judge order? *(Examples: who has custody of the children and what is the visitation schedule)*

(Attach a copy of the order, if you have one.)

Why do you want to change the order?

c. If there is another parent or legal guardian besides you and the person in ②, complete the section below.

Name: _____ Parent Legal Guardian

This is not a Court Order.



Orders a Judge Can Make to Protect Your Children

To ask for orders to protect your children, answer the questions below.

6 Do you want to limit where the person in 2 can travel with your children?

- No
 Yes (*Complete the section below*):

I ask the judge to order that the person in 2 must have written permission from me, or a court order, to take the children outside:

- The county of (*list*): _____
 California
 Other places (*list*): _____

7 Do you want the person in 2 to have access to the children's records or information?

- Yes
 No (*Complete the section below*):

a. I ask the judge to order that the person in 2 **not** access or have access to the records or information for:

- All the children listed in 3.
 Only the children listed here (*names*): _____

b. For the following records or information (*check all that apply*):

- Medical, dental, and mental health
 School and daycare
 Extracurricular activity, including summer camps and sports teams
 Other (*describe*): _____

(If the judge makes this order, providers will not be able to release the protected information to the person in 2.)

8 Do you believe the person in 2 might abduct (kidnap) your children?

- No
 Yes (*To ask for orders to help prevent abduction, you must complete form DV-108 and attach it to this form.*)

This is not a Court Order.



Child Custody

You can ask a judge to make custody orders for your children. There are two types of custody in California: legal and physical custody.

- **Legal custody** means the person that makes decisions about the child's health, education, and welfare.
- **Physical custody** means the person that the child regularly lives with.

For both types of custody, parents can share custody (joint) or one parent can have full custody (sole).

9 Do you want the judge to make child custody orders?

No

Yes (Complete the section):

Legal Custody (check one):

- Sole to me
 Sole to Person in ②
 Jointly (shared) by persons in ① and ②.
 Other (describe):

Physical Custody (check one):

- Sole to me
 Sole to Person in ②
 Jointly (shared) by persons in ① and ②.
 Other (describe):

Visitation (Parenting Time) with Children

You can ask a judge to make decisions about when your child spends time with the person in ②. This is called parenting time or visitation. It means the schedule and exact times each parent spends with the child. If a parent does not get custody, that parent can have parenting time with the child if a judge believes it is safe and in the child's best interest. Answer the questions below to tell the judge what parenting time you want right now for person in ②. Any orders the judge makes are temporary for now. They last until the court date (about three weeks away). On your court date, the judge can change or extend the orders.

10 Do you want the person in ② to have visits (parenting time) with the children?

- No, I ask the judge to order that person in ② have no visits. (Stop here. You have finished completing this form.)
 Yes (Go to ⑪.)

11 Do you want visits with the children to be supervised (monitored) by a third-party?

(To learn about supervised visitations, go to: selfhelp.courts.ca.gov/guide-supervised-visitacion.)

- Yes (Go to ⑫.)
 No (Go to ⑬.)



12 Details of Supervised (Monitored) Visits

(Complete a and b):

a. Who do you want to supervise the visits?

(Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): _____

Professional (list name, if known): _____

Professional fees paid by: Me _____ % Person in **(2)** _____ % Other: _____ %

b. How often and how long should the visits be?:

(Check one):

Once a week, for (number of hours): _____ each visit.

Twice a week, for (number of hours): _____ each visit.

Other (describe): _____

Check here if you want to use the chart listed below for a schedule. _____

Schedule for Supervised Visits			
<i>(List the days and times the person in (2) should visit with the children.)</i>			
	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: _____ End, if applies: _____		
Tuesday	Start: _____ End, if applies: _____		
Wednesday	Start: _____ End, if applies: _____		
Thursday	Start: _____ End, if applies: _____		
Friday	Start: _____ End, if applies: _____		
Saturday	Start: _____ End, if applies: _____		
Sunday	Start: _____ End, if applies: _____		
Follow the schedule listed above (check one):			
<input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____			
Start date for visits (month, day, year) _____			

! If you completed **(12)**, you are done completing this form. Do not complete **(13)**.

13 Details of Unsupervised Visits

(Complete a and b):

a. If the judge allows the person in ② to have unsupervised visits with your children, you will have to tell the judge how you want to handle drop-off and pick-up of the children, also called child exchanges.

Do you want child exchanges to be supervised by a third-party?

No

Yes (Complete the section below):

Who do you want to supervise the exchanges? (Check one):

Nonprofessional, like a trusted relative or friend (list name, if known): _____

Professional (list name, if known): _____

Professional fees paid by: Me _____ % Person in ② _____ % Other: _____ %

b. Describe the parenting time you want the person in ② to have with the children.

(Use the lines or chart below to explain what days and times the person in ② should visit with the children. Give details including when visits will happen, how often the visits should be, and who will be responsible for transporting the children.)

Schedule for Unsupervised Visits			
	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: _____ End, if applies: _____		
Tuesday	Start: _____ End, if applies: _____		
Wednesday	Start: _____ End, if applies: _____		
Thursday	Start: _____ End, if applies: _____		
Friday	Start: _____ End, if applies: _____		
Saturday	Start: _____ End, if applies: _____		
Sunday	Start: _____ End, if applies: _____		
Follow the schedule listed above (check one): <input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____			
Start date for visits (month, day, year) _____			

This form is attached to (check one):

Not approved by Judicial Council

 DV-105 (For person in ①): Use this form if you have children that have not lived together for the last five years.) DV-125 (For person in ②): Use this form to list where your children have lived for the last five years.)

(Use the space below to list where the child or children have lived for the last five years. Start with their current location.)

Name of child or children: _____

<u>Dates (month/year)</u>	<u>City, State, and Tribal Land</u>	<u>Children lived with (check all that apply):</u>		
		<u>Me</u>	<u>Person in ②</u>	<u>Other*</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Check here if you want to keep your current location private. List the state only.			
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other* (relationship to child): _____

(Use the space below to list another child or children who have not lived with the child or children listed above. List where they have lived for the last five years. Start with their current location.)

Name of child or children: _____

<u>Dates (month/year)</u>	<u>City, State, and Tribal Land</u>	<u>Children lived with (check all that apply):</u>		
		<u>Me</u>	<u>Person in ②</u>	<u>Other*</u>
From: _____ To present	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/> Check here if you want to keep your current location private. List the state only.			
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
From: _____ Until: _____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other* (relationship to child): _____

 Check here to list other children with a different residence history than the children you've already listed. Use another form DV-105(A) and attach it to this form.**This is not a Court Order.**

DV-108

Request for Orders to Prevent Child Abduction

Case Number: _____

This form is attached to DV-105, *Request for Child Custody and Visitation Orders*

(Use this form to ask for protection if you believe that the person in ② might take the children without your permission and hide them from you.)

① **Your Name:** _____

② **Name of Person You Want Protection From:** _____

③ **Reasons I Am Afraid of Child Abduction**

(In this section, explain to the judge why you believe there is a risk that the person in ② will take your children without your permission and hide them from you. The judge will use the information below to decide whether to grant any orders you request on page 2.)

The person in ② (check all that apply):

- a. Has violated or threatened to violate a custody or visitation order.
- b. Does not have strong ties to California.
- c. Has done things recently that make it easy to take our children, like *(check all that apply)*:
 - Quit a job
 - Closed a bank account
 - Sold or gotten rid of property
 - Sold a home or ended a lease
 - Applied for a passport, birth certificate, or school or medical records
 - Hidden or destroyed documents
 - Other *(explain)*: _____
- d. Has a history of:
 - Abusing me
 - Child abuse
 - Abusing other partners
 - Taking away or hiding our children from me
 - Threatening to take away or hide our children from me
 - Not cooperating with me in parenting
- e. Has a criminal record
- f. Has strong ties in:
 - Another county in California *(list county)*: _____
 - Another state *(list state)*: _____
 - Another country *(list country)*: _____
- g. Is a citizen of another country *(list country or countries)*: _____
 Does the person in ② have strong family, cultural, or emotional ties to that country? Yes No

Give examples or reasons for your answers above:

The statements made above are made under penalty of perjury as declared on the request form (DV-100, ③2).

This is not a Court Order.

Orders a Judge Can Make to Prevent Abduction

In this section, you can ask for orders to prevent the person in ② from abducting (kidnapping) your children.

Check all the orders that you want a judge to make (order).

4 **Do Not Move With Children Without Permission**

I ask the judge to order that the person in ② not move with our children without my written permission or the judge's permission.

5 **Turn In and Do Not Apply for Passports or Other Important Documents**

I ask the judge to order the person in ② to not apply for passports or other documents that can be used for travel, like visas and birth certificates, and to turn in the following documents: _____

by (date): _____ to (name of person to give documents to): _____

6 **Provide Travel Plan and Documents**

If the person in ② is allowed to travel with our children, the person in ② should be ordered to give me:

(Check all that apply.)

- Children's travel schedule
- Copies of round-trip airline tickets
- Addresses and telephone numbers where the children can be reached
- An open airline ticket for me in case the children are not returned.
- Other (describe): _____

7 **Notify Other State of Travel Restrictions**

I ask the judge to order the person in ② to register this order with

(list county and state): _____ before the children can travel to that state for visits.

8 **Notify Foreign Embassy or Consulate of Passport Restrictions**

I ask the judge to order the person in ② to notify (name of embassy or consulate): _____ of this order and to file proof of the notification with the court by (date): _____

9 **Foreign Custody and Visitation Order**

I ask the judge to order the person in ② to get a custody and visitation order equal to the most recent U.S. order before the child can travel to (list country): _____ for visits.

(Note that foreign orders may be changed or enforced depending on the laws of the country.)

10 **Post a Bond**

I ask the judge to order the person in ② to post a bond for \$ _____.

If the person in ② takes the children without my permission, I can use this money to bring the children back.

This is not a Court Order.

Clerk stamps date here when form is filed.

Draft- 8.8.22
Not approved by the
Judicial Council

Instruction: The person asking for a restraining order must complete items 1 and 2. The court will complete the rest of this form.

1 Person Asking for Protection
Name:

2 Person to Be Restrained
Name:

The court will fill out the rest of this form.

3 Notice of Hearing

A court hearing is scheduled on the request for restraining orders against the person in 2 :

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:



Name and address of court if different from above:

Date: Time:
Dept.: Room:

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to: www.courts.ca.gov/find-my-court.htm.

4 Temporary Restraining Orders (Any orders granted are attached on form DV-110.)

a. Temporary Restraining Orders (any order requested under Family Code section 6320):

(Check one):

- (1) All granted until the court hearing.
(2) All denied until the court hearing. (Reasons for denial are given below in b.)
(3) Partly granted and partly denied until the court hearing. (Reasons for denial are given below in b.)

b. Reasons for denial of some or all of the orders requested on form DV-100.

- (1) The facts given in the request (form DV-100) do not show reasonable proof of a past act or acts of abuse. (Family Code sections 6300, 6320, and 6320.5.)
(2) The facts given in the request do not give enough detail about the most recent incidents of abuse, including what happened, the dates, who did what to whom, or any injuries or history of abuse.
(3) Other reasons for denial:



5 Confidential Information Regarding Minor

- a. A Request to Keep Minor's Information Confidential (form DV-160) was made and **granted** (see form DV-165, Order on Request to Keep Minor's Information Confidential, served with this form.)
- b. **If the request was granted, the information described on the order (form DV-165, item 7) must be kept CONFIDENTIAL. The disclosure or misuse of the information is punishable as a sanction, with a fine of up to \$1,000 or other court penalties.**

6 Service of Documents by the Person in 1

At least five _____ days before the hearing, someone age 18 or older—not you or anyone to be protected—must personally give (serve) a court file-stamped copy of this form (DV-109, Notice of Court Hearing) to the person in 2 along with a copy of all the forms indicated below:

- a. DV-100, Request for Domestic Violence Restraining Order (file-stamped)
- b. DV-110, Temporary Restraining Order (file-stamped) **IF GRANTED**
- c. DV-120, Response to Request for Domestic Violence Restraining Order (blank form)
- d. DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?
- e. DV-250, Proof of Service by Mail (blank form)
- f. DV-170, Notice of Order Protecting Information of a Minor, and DV-165, Order on Request to Keep Minor's Information Confidential (file-stamped), **IF GRANTED**
- g. Other (specify): _____

Judge's Signature

Date: _____

Judicial Officer**Right to Cancel Hearing: Information for the Person in 1**

- If item 4a(2) or 4a(3) is checked, the judge has denied some or all of the temporary orders you requested until the court hearing. The judge may make the orders you want after the court hearing. You can keep the hearing date, or you can cancel your request for orders so there is no court hearing.
- If you want to cancel the hearing, use form DV-112, Waiver of Hearing on Denied Request for Temporary Restraining Order. Fill it out and file it with the court as soon as possible. You may file a new request for orders, on the same or different facts, at a later time.
- If you cancel the hearing, do not serve the documents listed in item 6 on the other person.
- If you want to keep the hearing date, you must have all of the documents listed in item 6 served on the other person within the time listed in item 6.
- At the hearing, the judge will consider whether denial of any requested orders will jeopardize your safety and the safety of children for whom you are requesting custody or visitation.
- You must attend the hearing if you want the judge to make restraining orders or continue any orders already made. If you cancel the hearing or do not attend the hearing, any restraining orders made on form DV-110 will end on the date of the hearing.



To the Person in ① :

- The court cannot grant a long-term restraining order unless the person in ② has been personally given (served) a copy of your request and any temporary orders. To show that the person in ② has been served, the person who served the forms must fill out a proof of service form, like form DV-200, *Proof of Personal Service*.
- For information about service, read form DV-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in ② in time, you may ask for more time to serve the documents. Read form DV-115-INFO, *How to Ask for a New Hearing Date*.

To the Person in ② :

- If you want to respond in writing, mail a copy of your completed form DV-120, *Response to Request for Domestic Violence Restraining Order*, to the person in ① and file it with the court. You cannot mail form DV-120 yourself. Someone age 18 or older — **not you** — must do it.
- To show that the person in ① has been served by mail, the person who mailed the form must fill out a proof of service form. Form DV-250, *Proof of Service by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the hearing.
- For information about responding to a restraining order and filing your answer, read form DV-120-INFO, *How Can I Respond to a Request for Domestic Violence Restraining Order?*
- If you are unable to attend your court hearing or need more time to prepare your case, you may ask the judge to reschedule your court date. Read form DV-115-INFO, *How to Ask for a New Hearing Date*.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. At the hearing, tell the judge why you agree or disagree with the orders requested. Bring any evidence or witnesses you have. Read form DV-520-INFO, *Get Ready for Your Restraining Order Court Hearing*.
- At the hearing, the judge may make restraining orders against you that could last up to five years.
- The judge may also make other orders about your children, child support, spousal support, money, and property and may order you to turn in, sell, or store any firearms (guns), firearm parts, or ammunition that you own or have.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civil Code section 54.8.)

(Clerk will fill out this part.)

—Clerk’s Certificate—

Clerk’s Certificate
[seal]

I certify that this *Notice of Court Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

Original Order Amended Order

Clerk stamps date here when form is filed.

Draft-8.8.22
Not approved by the
Judicial Council

Instruction: The person asking for a restraining order must complete items ①, ②, and ③ only. The court will complete the rest of this form.

① **Protected Person (name):** _____

② **Restrained Person**

*Full Name: _____

*Gender: M F Nonbinary

*Age: _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

*Race: _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Type, number, and location of firearms, firearm parts, or ammunition:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of _____

Court fills in case number when form is filed.

Case Number: _____

③ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑧ through ⑪.

Full name	Relationship to person in ①	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "DV-110, Other Protected People" at the top, and attach it to this form.

(The court will complete the rest of this form)

④ **Your Hearing Date (Court Date)**



This order expires at the end of the hearing listed below:

Hearing Date: _____ Time: _____ a.m. p.m.

This order must be enforced throughout the United States. See page 5.

This is a Court Order.



To the Person in 2

The judge has granted temporary orders. See items 5 through 20. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

5 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

6 Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



7 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed on form DV-109, item **3**, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in **5**b) you still have or own, including any items listed in **6**. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.



Date: _____ Dept.: _____
Time: _____ Room: _____

Name and address of court, if different than court address listed on page 1

8 **Cannot Look for Protected People**

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

9 **Order to Not Abuse** Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in **1** and any person listed in **3**:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. **Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.**

This is a Court Order.



10 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 10a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (explain): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

11 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (specify): _____ yards away from (check all that apply):

<input type="checkbox"/> Person in ①.	<input type="checkbox"/> School of person in ①.
<input type="checkbox"/> Home of person in ①.	<input type="checkbox"/> Persons in ③.
<input type="checkbox"/> Job or workplace of person in ①.	<input type="checkbox"/> Children’s school or child care.
<input type="checkbox"/> Vehicle of person in ①.	<input type="checkbox"/> Other (explain): _____
- b. Exception to 11a:
The stay-away orders do not apply:
 - (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
 - (2) For you to visit with your children for court-ordered contact or visits.
 - (3) Other (explain): _____

12 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (address): _____

13 Other Orders Not requested Denied until the hearing Granted as follows:

This is a Court Order.



14 Child Custody and Visitation Not requested Denied until the hearing Granted as follows:

Granted on the attached [form DV-140](#), *Child Custody and Visitation Order*, and

(list other form): _____.

15 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 Control of Property Not requested Denied until the hearing Granted as follows:

Until the hearing, **only** the person in ① can use, control, and possess the following property:

17 Health and Other Insurance Not requested Denied until the hearing Granted as follows:

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties —or their children, if any —for whom support may be ordered, or both.

18 Record Communications Not requested Denied until the hearing Granted as follows:

The person in ① may record communications made by the person in ② that violate this order.

This is a Court Order.



19 Property Restraint Not requested Denied until the hearing Granted as follows:

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted ⑧, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

20 Pay Debts Owed for Property Not requested Denied until the hearing Granted as follows:

The person in ② must make these payments until this order ends:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

21 Orders That May Be Made at the Hearing Date (Court Date)

If the person in ① checked any of these orders on form DV-100, a judge could grant them at your court date.

- Child Support • Lawyer’s Fees and Costs • Batterer Intervention Program
- Spousal Support • Pay Expensed Caused by Abuse • Transfer of Wireless Phone Account

22 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free.
Bring a copy of all the papers that you need to be served to the sheriff or marshal.

23 **Attached pages** *(All of the attached pages are part of this order.)*

a. Number of pages attached to this nine-page form: _____

b. Attachments include forms *(check all that apply)*:

DV-140 DV-145 DV-820 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. [section 2265](#) (1994) (VAWA), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Warnings and Notices to the Restrained Person in ②

Your Address to Receive Court Orders

If the judge makes a restraining order at the hearing (court date), which has the same orders as in this Temporary Restraining Order, you will get a copy of that order by mail at your last known address, which is written in ② on page 1. If your address was not listed on this form or is incorrect, contact the court. If you did not [attend](#) your hearing and want to know if the judge granted a restraining order against you, contact the court.

Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not [attend](#) your hearing (court date), the judge can make custody and visitation orders for your children without hearing from you.
- **Child support:** The judge can order child support based on the income of both parents. The judge can also have that support taken directly from a parent's paycheck. Child support can be a lot of money, and usually you have to pay until the child is age 18. File and serve [form FL-150, Income and Expense Declaration](#), or [form FL-155, Financial Statement \(Simplified\)](#), if you want the judge to have information about your finances. Otherwise, the court may make support orders without hearing from you.
- **Spousal support:** File and serve [form FL-150, Income and Expense Declaration](#), so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

Firearms (Guns), Firearm Parts, and Ammunition

Under California law, you cannot have any firearms (guns), certain firearm parts, or ammunition. (Family Code sections 6216 and 6389(a)). Ask the court for information on how to properly turn in, sell, or store these items in your city or county. You can also contact your local police department for instructions.

This is a Court Order.



Instructions for Law Enforcement

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in ⑥, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.

Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at items ⑩ and ⑪ of this order to see if the judge granted an exception for brief and peaceful contact with the person in ① as needed to follow court-ordered visits. Contact by the person in ② that is not brief and peaceful is a violation of this order. Forms DV-100 and DV-105 are not orders. Do not enforce them.

This is a Court Order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 10 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Order on Request to Continue Court Hearing

Clerk stamps date here when form is filed.

Draft- 8.8.22
Not approved by
Judicial Council

(Complete 1 and 2 only. The court will complete the rest of this form.)

1 Protected Party: _____

2 Restrained Party: _____

3 Next Court Date

a. [] The request to reschedule the court date is denied.

Your court date is: _____

(1) Any Temporary Restraining Order (form DV-110) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because: _____

b. [] The request to reschedule the court date is granted. The new court date is listed below. See 5-9 for more information.

New Court Date

Date: _____ Time: _____
Dept.: _____ Room: _____

Name and address of court, if different from above: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

4 Option to Attend Court Hearing By Phone or Videoconference

You may attend your court date remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website go to: www.courts.ca.gov/find-my-court.htm.

5 Temporary Restraining Order

a. [] There is no Temporary Restraining Order (TRO) in this case until the next court date because:

(1) [] A TRO was not previously granted by the court.

(2) [] The court terminates (cancels) the previously granted TRO because: _____

b. [] A Temporary Restraining Order (TRO) is in full force and effect because:

(1) [] The court extends the TRO previously granted on (date): _____

It now expires on (date): _____ (If no expiration date is listed, the TRO expires at the end of the court date listed in 3 b).

(2) [] The court changes the TRO previously granted and signs a new TRO (form DV-110).

c. [] Other (specify): _____

Warning and Notice to the Restrained Party: If 5 b is checked, a domestic violence restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



6 Reason Court Date Is Rescheduled

- a. There is good cause to reschedule the court date (*check one*):
- (1) The protected party has not served the restrained party.
- (2) Other (*explain*):

- b. This is the first time that the restrained party has asked for more time to prepare.
- c. The court reschedules the court date on its own motion.

7 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Protected party**

- (1) You do not have to serve the restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the restrained party personally served with a copy of this order and a copy of all documents listed on form [DV-109](#), item **(6)**, by (*date*): _____
- (3) You must have the restrained party served with a copy of this order. This can be done by mail. You must serve by (*date*): _____
- (4) The court gives you permission to serve the restrained party as listed on the attached form DV-117.
- (5) Other:
- _____
- _____
- _____
- _____

b. **Restrained party**

- (1) You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.
- (2) You must have the protected party personally served with a copy of this order by (*date*): _____
- (3) You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (*date*): _____
- (4) Other:
- _____
- _____
- _____
- _____

c. **Court**

- (1) Further notice is not required.
- (2) The court will mail a copy of this order to all parties by (*date*): _____
- (3) Other:
- _____
- _____
- _____
- _____

This is a Court Order.



8 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

9 Other Orders

10 Attached pages *(All of the attached pages are part of this order.)*

a. Number of pages attached to this three-page form: _____

b. Attachments include forms *(check all that apply)*:
 DV-110 DV-820 Other: _____
Judge's Signature

Date: _____

Judge or Judicial Officer**Request for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for Request for Accommodations by Persons With Disabilities and Response (*form MC-410*). (Civil Code section 54.8.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate

[seal]

I certify that this *Order on Request to Continue Court Hearing (Temporary Restraining Order) (CLETS-TRO)* (form DV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

**Draft- 7.31.22
Not approved by the Judicial Council**

Use this form if someone has asked for a domestic violence restraining order against you, and you want to respond in writing. You will need a copy of form DV-100, *Request for Domestic Violence Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

Do not use this form if you want to ask for your own restraining order. Read [form DV-500-INFO](#), *Can a Domestic Violence Restraining Order Help Me?* to find out more about this type of restraining order.

Fill in court name and street address:

Superior Court of California, County of**1 Name of Person Asking for Protection:***(See form DV-100, item 1):*

2 Your Name:

Fill in case number:

Case Number:**! Address where you can receive court papers**

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed on form DV-109, *Notice of Court Hearing*. If you do not agree to having a restraining order against you, **attend** your hearing date. If you do not **attend** your hearing, the judge could grant a restraining order that could last up to five years.

This is not a Court Order.

How to complete this form: To answer the questions below, look at the form DV-100 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

④ Information About You (see ② on form DV-100)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

⑤ History of Court Cases and Restraining Orders (see ④ on form DV-100)

The person in ① may have listed other court cases or restraining orders involving you. If information is incorrect or missing, use the space below to give information.

Check here if you are including a copy of restraining order or court order that you want the judge to know about.

⑥ Your Relationship to the Person in ①

In item ③ of form DV-100, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?:

⑦ Other Protected People

If the judge grants a restraining order, it can include family or household members of the person in ①. See ⑧ on form DV-100 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

⑧ Order to Not Abuse (see ⑩ on form DV-100)

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



9 **No-Contact Order** (see **11** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**10** **Stay-Away Order** (see **12** on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**11** **Order to Move Out** (see **13** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**12** **Other Orders** (see **14** on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____
_____**13** **Child Custody and Visitation** (see **15** on form DV-100 and DV-105)

- a. I am **not** the parent of the child listed in form DV-105, *Request for Child Custody and Visitation Orders*
b. I am the parent of the child or children listed in form DV-105 (check one):

- (1) I agree to the orders requested.
(2) I do not agree to the orders requested. (Complete form DV-125, *Response to Request for Child Custody and Visitation Orders*, and attach it to this form.)

This is not a Court Order.

14 **Protect Animals** (see 16 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

15 **Control of Property** (see 17 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

16 **Health and Other Insurance** (see 18 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

17 **Record Communications** (see 19 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

18 **Property Restraint** (see 20 on form DV-100)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

19 **Pay Debt (Bills) Owed for Property** (see 22 on form DV-100)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



20 **Pay Expenses Caused by the Abuse** (see **23** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

21 **Child Support** (see **24** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.
- c. I agree to pay guideline child support. (Learn more about guideline child support at www.courts.ca.gov/selfhelp-support.htm.)

22 **Spousal Support** (see **25** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

23 **Lawyer's Fees and Costs** (see **26** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

- c. I ask that the person in **1** pay for some or all of my lawyer's fees and costs.

24 **Batterer Intervention Program** (see **27** on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

This is not a Court Order.



25 **Transfer Wireless Phone Account** (see 28 on form DV-100)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

26 **Firearms (Guns), Firearm Parts, or Ammunition** (see 29 on form DV-100)

If you were served with form DV-110, *Temporary Restraining Order*, you must follow the orders in 7 on form DV-110. You must file a receipt with the court from the law enforcement agency or a licensed gun dealer within 48 hours after you received form DV-110. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

(Check all that apply)

- a. I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or own to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply): is attached has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)

(Give details, like what your job is and why you need a firearm): _____

27 **Cannot Look for Protected People** (see 30 on form DV-100)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to: _____

28 **Additional Reasons I Do Not Agree with the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “DV-120, Additional Reasons I Do Not Agree with the Request” at the top.

This is not a Court Order.



29 **My Out-of-Pocket Expenses**

If the request for restraining order is denied by the judge at the court hearing, I ask the judge to order the person in **1** to pay my out-of-pocket expenses because the temporary restraining order was granted without enough supporting facts. The expenses are:

For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____
For: _____	Because: _____	Amount: \$ _____

30 **Additional Pages**

Number of pages attached to this form, if any: _____

31 **Your signature**

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

Date: _____

Type or print your name



Sign your name

32 **Your lawyer's signature** *(if you have one)*

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

- If the person in **1** asked for child support, spousal support, or anyone is asking for lawyer's fees, you must complete [form FL-150, Income and Expense Declaration](#). If the person in **1** is only asking for child support (item 24 on form DV-100), you may be eligible to fill out a simpler form, [form FL-155](#). Read [form DV-570](#) to see if you are eligible to fill out form FL-155. Before your court date, you must file form FL-150 or FL-155 with the court. Then you must have a server mail a copy to the person in **1** and have your server complete [form DV-250, Proof of Service by Mail](#). After form DV-250 is completed, file it with the court.
- Prepare for your court date by gathering evidence or witnesses, if you have any. Learn more at: <https://selfhelp.courts.ca.gov/respond-domestic-violence-restraining-order>. More information is also available on [form DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?](#)

This is not a Court Order.

DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

I was served with form DV-100, DV-109, or DV-110. What does this mean?

Someone has asked for a domestic violence restraining order against you. On the forms, you are the "person in ②" and the person who wants a restraining order against you is listed in ① on all the forms.

Form DV-100: This form has all the orders that the person in ① has asked the judge to order.

Form DV-109: Your court hearing (court date) is listed on this form. You should attend the court hearing if you do not agree to the orders requested. If you do not attend, the judge can make orders against you without hearing from you.

Form DV-110: If you were served with form DV-110, it means that the judge granted a temporary restraining order against you. You must follow the orders.

What is a Domestic Violence Restraining Order?

It is a court order that can help protect people who have been abused by someone they have been intimate with, or are closely related to. To be eligible, the person asking for the restraining order must be:

- Someone you date or used to date
- A spouse, ex-spouse, registered domestic partner, or ex-domestic partner
- Someone you live or lived with (more than a roommate)
- Your parent, sibling, child, grandparent, or grandchild related by blood, marriage, or adoption

What can a restraining order do?

A restraining order can include orders for you to:

- Not contact or harm the protected person, including children or others listed as protected people
- Stay away from all protected people and places
- Not have any firearms (guns), firearm parts, or ammunition. This includes homemade or untraceable guns, like "ghost guns."
- Move out of the place that you share with the protected person
- Follow custody and visitation orders
- Pay child support
- Pay spousal support
- Pay debt for property
- Give control of property (examples: cell phone, car, home) to the person asking for protection.

What if I have children with the person asking for a restraining order?

A restraining order can include orders for your children, including listing them as protected persons. It can also include child custody and visitation orders and orders to limit your ability to travel with your children.

How long does the order last?

If the judge granted a temporary restraining order (form DV-110), it will last until the hearing date. At your court hearing, the judge will decide whether to extend the order or cancel the order. The judge can extend the order for up to five years. Custody, visitation, child support, and spousal support orders can last longer than five years and they do not end when the restraining order ends.



What do I do next?**Part 1: Turn in or sell prohibited items**

If there is a temporary restraining order against you (see form DV-110), then you must immediately turn in, sell, or store any prohibited items you have or own. Prohibited items include:



- **Firearms**, including any handgun, rifle, shotgun, and assault weapon
- **Firearm parts** include any receiver, frame, or unfinished receiver/frame
- **Ammunition**, including bullets, shells, cartridges, and clips

You must then prove to the court that you've complied with the orders. Bring form DV-800/JV-270, *Receipt for Firearms, Firearm Parts, and Ammunition*, to a gun dealer or law enforcement when you turn in your items. After DV-800/JV-270 is complete, file it with the court. You may ask the court for information on how to turn in, sell, or store these items in your city or county. You can also read [form DV-800-INFO/JV-270-INFO](#), *How Do I Turn In, Sell, Or Store My Firearms, Firearm Parts, and Ammunition?*.

Part 2: Respond in writing (optional)

"Respond" means to let the judge and the other side know whether you agree or disagree with the request for restraining order, and why. Responding in writing is optional and there is no penalty if you don't. If you need more time to prepare for your case, talk to a lawyer or self-help center staff before you file a response.

If you want to respond in writing, complete [form DV-120](#), *Response to Request for Domestic Violence Restraining Order*. After you complete the form, file it with the court. There is no court fee to file this form. Then "serve" the form on the person asking for the restraining order. "Serve" means to have someone 18 years old or older mail a copy to the person asking for the restraining order. You cannot be the one to mail your papers. The person who mails your form must fill out [form DV-250](#), *Proof of Service by Mail*. After form DV-250 is completed, file it with the court.

Part 3: Get ready and go to your court hearing

Your court hearing is listed on form DV-109, *Notice of Court Hearing*. You have the option of attending your hearing in-person or remotely (by phone, or videoconference if available). For information on how to attend your hearing remotely, go to the court's website. Some courts may require advance notice. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read [form DV-520-INFO](#), *Get Ready for the Restraining Order Court Hearing*. If you need more time to prepare your case, you may ask the judge for a new court date. The judge will decide whether to grant your request. Read form DV-115-INFO, *How to Ask For a New Hearing Date*, for more information. Note that if the judge does give you a new court date and if there is a temporary restraining order against you, the judge will usually extend the temporary restraining order until the next court date.

What if I need an interpreter?

You may use form INT-300 to request an interpreter or ask the clerk how you can request one.

What if I have a disability and need an accommodation?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

Do I need a lawyer?

It's possible to go through this process without a lawyer. But having a restraining order against you may have a lot of consequences, and you may want to hire a lawyer. If you don't hire a lawyer, you can get free help from your court's self-help center.

What if I was arrested or have criminal charges against me?

Anything you write in your court papers or say at a hearing for this case and for any criminal case can be used against you. Talk to a lawyer if you have any concerns about what you can do and say.

Where can I find a self-help center?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I don't obey the order?

The police can arrest you. You can go to jail and pay a fine. You must still follow the orders even if you are not a U.S. citizen. If you are worried about your immigration status, talk to an immigration lawyer.

Can I use the restraining order to get divorced or end a domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.

What if I want to leave the county or state?

You must still comply with the restraining order, including custody and visitation orders. The restraining order is valid anywhere in the United States.

What if I have more than one restraining order against me?

If the police are called to enforce the order, they will need to follow the rules of enforcement (see "Priority of Enforcement" listed on the back of form DV-110, DV-130, and CR-160). If you have questions about any of the orders against you, contact your local self-help center or talk to a lawyer. Find your local court's self-help center at:

www.courts.ca.gov/selfhelp.

What if I am a victim or survivor of domestic violence?

The National Domestic Violence Hotline provides free and private safety tips. Help is available in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

What if I need a restraining order against the other person?

Do not use form DV-120 to request a domestic violence restraining order. For information on how to file your own restraining order, read [form DV-505-INFO](#). You can also ask the court clerk about free or low-cost legal help.

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order>

DV-125**Response to Request for Child
Custody and Visitation Orders**

Case Number: _____

(This form is attached to form DV-120.)

How to complete this form: To answer the questions below, look at the form DV-105 filled out by the person in ①. Tip: Where form DV-105 refers to "person in ②," that means you. If you need more space to complete your answer, you can use a separate piece of paper and attach it to this form. Include a title at the top of the paper (example: DV-125, Custody of Children).

① Person Asking for Protection (see ① on form DV-105)

a. Name: _____

b. Relationship to children: Parent Legal Guardian Other (describe): _____**② Your Information**

a. Name: _____

b. Relationship to children: Parent Legal Guardian Other (describe): _____**③ Children** (see ③ on form DV-105)a. I am the parent of the child or children listed on form DV-105.b. I am **not** the parent of all the children listed on form DV-105.c. I am **not** the parent of the following children (list names):
_____d. Other (describe): _____**④ City and State Where Children Lived** (see ④ on form DV-105)a. I agree with the information given by the person in ①.b. I do not agree. (Use form DV-105(A) to list where the children have lived.)**⑤ History of Court Cases Involving Children** (see ⑤ on form DV-105)

The person in ① may have listed other court cases involving your children. If information is incorrect or missing, use the space below to give information.

(Check all that apply. List where it was filed (city, state, or tribe), year it was filed, and case number, if known.)

 Custody or Divorce _____ Criminal _____ Juvenile Court (child welfare, juvenile justice) _____ Guardianship _____ Other (example: child support case) _____

(If a judge has already made a custody or visitation order for children in this case, attach a copy of the order if you have one.)

This is not a Court Order.

6 **No Travel With Children Without Permission** (see **6** on form DV-105)a. I agree to the order requested.b. I do not agree to the order requested because: _____c. I would agree to a different order (describe the order you would agree to):
_____**7** **Stop Access to Children's School, Health, and Other Information** (see **7** on form DV-105)a. I agree to the order requested.b. I do not agree to the order requested because: _____c. I would agree to a different order (describe the order you would agree to):

_____**8** **Request for Orders to Prevent Child Abduction** (see **4**–**13** on form DV-108)a. I agree to the order requested.b. I do not agree to the order requested because: _____c. I would agree to a different order (describe the order you would agree to):
_____**9** **Custody of Children** (see **9** on form DV-105)a. I agree to the order requested.b. I do not agree to the order requested because: _____c. I would agree to a different order:Legal Custody (The person that makes decisions about the child's health, education, and welfare.)
(check one): Sole to me Sole to person in **1** Jointly (shared) by persons in **1** and **2**. Other (describe): _____

Physical Custody (The person that the child regularly lives with.)

(check one):

 Sole to me Sole to person in **1** Jointly (shared) by persons in **1** and **2**. Other (describe): _____**This is not a Court Order.**

10 **Your Visitation (Parenting Time) with Children** (see pages 3–5 on form DV-105)

- a. I agree to the order requested.
- b. I do not agree to the order requested because: _____
- c. I would agree to a different order: _____

(Use the lines or chart below to describe the parenting time you want. Give as much detail as you can.)

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: End, if applies:		
Tuesday	Start: End, if applies:		
Wednesday	Start: End, if applies:		
Thursday	Start: End, if applies:		
Friday	Start: End, if applies:		
Saturday	Start: End, if applies:		
Sunday	Start: End, if applies:		
<p>Follow the schedule listed above (check one): <input type="checkbox"/> Every week <input type="checkbox"/> Every other week <input type="checkbox"/> Other _____</p> <p>Start date for visits (month, day, year) _____</p>			

11 The statements made on this form are made under penalty of perjury as declared on form DV-120.

This is not a Court Order.

Clerk stamps date here when form is filed.

**Draft- Not approved by
Judicial Council-7.20.22**

Original Order Amended Order

1 Protected Person (name): _____

2 Restrained Person

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in **1**: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

3 Other Protected People

In addition to the person in **1**, the following persons are protected by orders as indicated in items **11** through **14**.

Full name	Relationship to person in 1	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "DV-130, Other Protected People" at the top, and attach it to this form.

4 Expiration Date

This restraining order, except the orders noted below,* end on:

(date): _____ at (time): _____ a.m. p.m. or midnight

***Custody, visitation, child support, and spousal support orders remain in effect after the restraining order ends. Custody, visitation, and child support orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item **5**a.
- If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 9.

This is a Court Order.



5 Hearing

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people attended the hearing *(check all that apply)*:
- The person in ① The lawyer for the person in ① *(name)*: _____
- The person in ② The lawyer for the person in ② *(name)*: _____

6 Future Court HearingThe person in ① person in ② must attend court on:

Date: _____ Department: _____

Time: _____ a.m. p.m. to review *(list issues)*: _____**To the Person in ②**

The court has granted a long-term restraining order. See ⑦ through ⑲. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:**
- (1) Firearms;
- (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
- (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt of Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm *(make, model, and serial number of firearm)*: _____ but must only have it during scheduled work hours and to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.

8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "DV-130, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____
The court has not received a receipt or proof of compliance for all the items listed in **(8)**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation (law enforcement agency or agencies): _____

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation (prosecuting agency): _____

10 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **(6)** to prove that you have properly turned in, sold, or stored all prohibited items (described in **(7)**b) you still have or own, including any items listed in **(8)**. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

This is a Court Order.



11 Cannot Look for Protected People

You must not take any action to look for any person protected by this order, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

12 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

- Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeatedly contact), or disturb the peace.
- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

13 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 13a:

- (1) You may have brief and peaceful contact with the person in ① to only communicate about your children for court-ordered visits.
- (2) You may have contact with your children only during court-ordered contact or visits.
- (3) Other (*explain*): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



14 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- Person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children’s school or child care.
- Other (*specify*): _____

b. Exception to 14a:

The stay-away orders do not apply:

- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____

15 **Order to Move Out**

You must move out immediately from (*address*):

16 **Other Orders**

17 **Child Custody and Visitation Order**

The judge has granted orders regarding minor children. The orders are included on **form DV-140**, and (*list other form*): _____

18 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



19 **Control of Property**

Only the person in ① can use, control, and possess the following property:

20 **Health and Other Insurance**

The person in ① in ② is ordered **not** to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of the parties, or their children, if any, for whom support may be ordered, or both.

21 **Record Communications**

The person in ① may record communications made by the person in ② that violate this order.

22 **Property Restraint**

The person in ① in ② must not transfer, borrow against, sell, hide, or get rid of or destroy any property, including animals, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court. (If the court granted the order in ⑬, the person in ② must not contact the person in ①. To notify the person in ① of new or big expenses, have a server mail or personally give the information to the person in ① or contact their lawyer, if they have one.)

23 **Pay Debts (Bills) Owed for Property**

a. You must make these payments until this order ends:

(1) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(2) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
(3) Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

b. The court finds that the debt or debts listed above in a(1) a(2) a(3) were the result of abuse in this case, and made without the person in ①'s agreement.

This is a Court Order.



24 **Pay Expenses Caused by the Abuse**

You must pay the following:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

25 **Child Support**

Child support is ordered on the attached [form FL-342](#), *Child Support Information and Order Attachment* or (list other form): _____

26 **Spousal Support**

Spousal support is ordered on the attached [form FL-343](#), *Spousal, Partner, or Family Support Order Attachment* or (list other form): _____

27 **Lawyer's Fees and Costs**

You must pay the following lawyer's fees and costs:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

28 **Batterer Intervention Program**

- a. The person in **(2)** must go to and pay for a probation certified 52-week batterer intervention program and show proof of completion to the court.
- b. The person in **(2)** must enroll by (date): _____ or if no date is listed, must enroll within 30 days after the order is made.
- c. The person in **(2)** must complete, file, and serve [form DV-805](#), *Proof of Enrollment for Batterer Intervention Program*.

29 **Transfer of Wireless Phone Account**

The court has made an order transferring one or more wireless service accounts from you to the person in **(1)**. These orders are contained on [form DV-900](#), *Order Transferring Wireless Phone Account*.

This is a Court Order.



30 Service

(Check a, b, or c)

- a. **No other proof of service is needed.** The people in ① and ② were at the hearing or agreed in writing to this order.
- b. **The person in ② was not present.** Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. *(Check all that apply):*
 - (1) This order can be served by mail. The judge’s orders in this form are the same as in form DV-110 except for the expiration date. The person in ② must be served, either by mail or in person.
 - (2) This order must be personally served. The judge’s orders in this form are different from the orders in form DV-110, or form DV-110 was not issued. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by *(date)*: _____
 - (B) Mail at the person in ②'s last known address by *(date)*: _____
- c. **Proof of service of form FL-300 to modify the orders in form DV-130 was presented to the court.**
 - (1) The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
 - (2) The person in ① in ② was not at the hearing and must be personally served (given) a copy of this amended (modified) order.

31 No Fee to Serve (Notify) Restrained Person

The sheriff or marshal will serve this order for free.
Take a copy of all the papers that you need to be served to the sheriff or marshal.

32 Attached pages

All of the attached pages are part of this order.

- a. Number of pages attached to this 10-page form: _____
- b. Attachments include forms *(check all that apply)*:
 DV-140 DV-145 DV-900 FL-341(C) FL-342 FL-343 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With VAWA

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

This order starts on the earlier of the following dates:

- The hearing date in item ⑤(a) on page 2; or
- The date next to the judge’s signature on this page.

This order ends on the expiration date in ④. If no date is listed, they end three years from the hearing date.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in ⑦b, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code, section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b)-(c).)

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Child Custody and Visitation

Child custody and visitation orders are listed on form DV-140 or another attached form. If the judge made these orders, look at items 13 and 14 of this order to see if the judge granted an exception for brief and peaceful contact with the person in 1 as needed to follow court-ordered visits. Contact by the person in 2 that is not brief and peaceful is a violation of this order.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 13 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Order of Protection)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DV-140

Child Custody and Visitation Order

Case Number: _____

This form is attached to (*check one*): DV-110 DV-130

1 Name of Protected Person: _____
Relationship to children: Parent Legal Guardian Other (*describe*): _____

2 Name of Restrained Person: _____
Relationship to children: Parent Legal Guardian Other (*describe*): _____

3 Children Under 18 Years Old

a. Name: _____ Date of birth: _____
b. Name: _____ Date of birth: _____
c. Name: _____ Date of birth: _____
d. Name: _____ Date of birth: _____

(Check here if you have more children to list. On a separate piece of paper write "DV-105, Children" at the top and attach it to this form.)

4 No Travel With Children Without Permission

Person in **1** Person in **2** Other (*name*): _____
must have written permission from the other parent, or a court order, to take the children outside of:

a. State of California
b. United States
c. Other place(s) (*list*): _____

5 Stop Access to Children's School, Health, and Other Information

a. The person in **2** must not access or have access to the records or information for:
 All the children listed in **3**.
 Only the children listed here (*names*): _____

b. From the following (*check all that apply*):

Medical, dental, and mental health providers
 School and daycare providers
 Extracurricular activity providers, including summer camps and sports teams
 Child's employers (including volunteer and unpaid positions)
 Other (*describe*): _____

! If you are a provider listed above, you must not release information or records regarding the children listed in **5**a to the person in **2**.

This is a Court Order.



6 **Judge's Decision on Request for Orders to Prevent Child Abduction** *(attach form DV-145)*

7 **Child Custody**

a. Legal Custody *(The person that makes decisions about the child's health, education, and welfare.)*

- Sole to Person in **1** Jointly (shared) by persons in **1** and **2**.
 Sole to Person in **2** Other (name): _____

b. Physical Custody *(The person that the child regularly lives with.)*

- Sole to Person in **1** Jointly (shared) by persons in **1** and **2**.
 Sole to Person in **2** Other (name): _____

c. If the judge granted sole or joint custody to the person in **2**, the judge must explain why.

(For judge to complete. Check all that apply):

- Judge's reasons given at the hearing *(See minute order or ask for the transcript.)*
 Judge's reasons listed here: _____

8 **Person in 2 must have no visitation with children until further order of the court.**

(If this form is attached to form DV-110, Temporary Restraining Order, this means that the judge has stopped your right to visit with your children temporarily. If you do not agree with this order, attend your court hearing.)

9 **Supervised (Monitored) Visitation with Children**

a. Person to be supervised: Person in **1** Person in **2** by:

Nonprofessional *(name and relationship to child, if known):* _____

Professional *(name, if known):* _____

(1) Fees paid by: Person in **1** _____ % Person in **2** _____ % Other: _____ %

(2) Person in **1** contact provider by *(date)*: _____

Person in **2** contact provider by *(date)*: _____

b. Provider's contact information, if known

Address: _____ Telephone: _____

c. Schedule of supervised visits

(1) Once a week, for *(number of hours)*: _____

(2) Twice a week, for *(number of hours)*: _____ each visit.

(3) Follow the Visitation Schedule listed in **12**.

(4) Other schedule *(describe)*: _____

This is a Court Order.



10 **Supervised (Monitored) Child Exchanges** (Use item **11** to describe visitation schedule.)

- a. Person to be supervised: Person in **1** Person in **2** by:
- Nonprofessional (name and relationship to child): _____
Safe location for exchanges: _____
(For more information on safe locations, go to selfhelp.courts.ca.gov/guide-supervised-visitation.)
- Professional (list name, if known): _____
- (1) Fees paid by: Person in **1** _____ % Person in **2** _____ % Other: _____ %
- (2) Person in **1** contact provider by (date): _____
Person in **2** contact provider by (date): _____
- (3) Location of exchanges to be decided by provider.
- b. Provider's contact information, if known:
Address: _____ Telephone: _____

11 **Visits With No Supervision (Unmonitored)**

- a. If the judge granted unsupervised visits to the person in **2**, the judge must explain why.
(For judge to complete. Check all that apply):
- Judge's reasons given at the hearing (See minute order or ask for the transcript.)
- Judge's reasons listed here: _____

- b. Person in **1** Person in **2** will visit with the children as follows:
- (1) Visitation schedule described below:

- (2) Follow the Visitation Schedule listed in **12**.

12 **Visitation Schedule for Person in 2**

	Time	Person to bring children to and from visit	Location of drop-off/pick-up
Monday	Start: End, if applies:		
Tuesday	Start: End, if applies:		
Wednesday	Start: End, if applies:		
Thursday	Start: End, if applies:		
Friday	Start: End, if applies:		
Saturday	Start: End, if applies:		
Sunday	Start: End, if applies:		

Follow the schedule listed above:

- Every week
 1st and 3rd week of every month
 2nd and 4th week of every month
 Other _____

Start date for visits (month, day, year) _____

13 **Other Orders**

(Describe additional orders or refer to an attachment (e.g., FL-341(C), Children's Holiday Schedule Attachment)):

14 **Country of Habitual Residence**

The country of habitual residence of the child or children in this case is The United States
 or Other (specify): _____.

15 **Jurisdiction and Notice**

This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code starting with section 3400). The responding party was given notice consistent with the laws of the State of California.

16 **Penalties for Violating This Order**

If you violate this order, you may be subject to civil or criminal penalties, or both.

This form is attached to DV-140, Child Custody and Visitation Order

Draft-7.20.22

Not approved by Judicial Council

1 Name of Protected Person: Relationship to children: Parent Legal Guardian Other (describe):

2 Name of Restrained Person: Relationship to children: Parent Legal Guardian Other (describe):

3 Court's Decision

Based on the information given, the judge finds that:

a. There is not a risk that the person in 2 might take the children without proper permission. The judge has not granted any of the orders in 4-12.

b. There is a risk that the person in 2 might take the children without permission because person in 2:

(Check all that apply):

(1) Has violated or threatened to violate a custody or visitation order.

(2) Does not have strong ties to California.

(3) Has done things recently that make it easy to take the children (check all that apply):

- Quit a job Sold a home or ended a lease
Closed a bank account Hidden or destroyed documents
Sold or gotten rid of property Applied for a passport, birth certificate, or school or medical records

(4) Has a history of (check all that apply):

- Abusing person in 1 Taking the children without permission
Abusing other partners Not cooperating with person 1 in parenting
Child abuse

(5) Has a criminal record

(6) Has strong ties in:

- Another county in California (list county):
Another state (list states):
Another country (list country):

(7) Is a citizen of another country (list country):

(8) Other reasons:

Orders to Prevent Child Abduction are granted as follows:

4 Do Not Move Without Written Permission of the Other Parent or Court Order

The person in 2 must not move with the children outside

This county California The United States Other (specify): without written permission from the other parent or a court order.

This is a Court Order.

5 **Turn In and Do Not Apply for Passports or Other Important Documents**

Person in **(2)** must not apply for passports or other documents that can be used for travel, like visas and birth certificates, and must turn in the following documents:

by (date): _____ to (name): _____

6 **Provide Travel Plan and Documents**

Person in **(2)** must give the person in **(1)** the following before traveling with the children (*check all that apply*):

- Children's travel schedule
- Copies of round-trip airline tickets
- Addresses and telephone numbers where children can be reached
- An open airline ticket for the person in **(1)** in case the children are not returned
- Other (*describe*): _____

7 **Notify Other State of Travel Restrictions**

Person in **(2)** must register this order with (*list county and state*): _____ before the children can travel to that state for visits.

8 **Notify Foreign Embassy or Consulate of Passport Restrictions**

Person in **(2)** must notify (*name of embassy or consulate*): _____ of this order and provide the court with proof of the notice by (*date*): _____

9 **Foreign Custody and Visitation Order**

Person in **(2)** must get a custody and visitation order equal to the most recent U.S. order before the children can travel to (*list country*): _____ for visits.

The court recognizes that foreign orders may be changed or enforced depending on the laws of that country.

10 **Post a Bond**

The person in **(2)** must post a bond for \$ _____ .

11 **Enforcing Order**

The court authorizes any law enforcement officer to enforce this order. In this county, contact the Child Abduction Unit of the Office of the District Attorney at: _____

12 **Other** (*list other orders or jurisdictional factors*): _____

Notice to Authorities in Other States and Countries: This court has jurisdiction to make child custody orders under California's Uniform Child Custody Jurisdiction and Enforcement Act (California Family Code, part 3, section 3400 et seq.) and The Hague Convention on the Civil Aspects of International Child Abduction (42 U.S.C. section 11601 et seq.). If jurisdiction is based on other factors, they will be listed above in **(12)**.

This is a Court Order.

This form is attached to DV-110, Temporary Restraining Order DV-130, Restraining Order After Hearing DV-140, Child Custody and Visitation Order

1 Name of Protected Person: _____ Mom Dad Other*

2 Other Parent's Name: _____ Mom Dad Other*

*If Other, specify relationship to child: _____

The Court Orders:

3 Mediation, Visitation and Exchange

a. Parties must go to mediation at: _____

b. Visitation of children is supervised. Parent to be supervised is: Mom Dad Other (name): _____

c. Exchanges of children are supervised.

4 Schedule of Supervised Visits

a. All visits as provided in the schedule on Form DV-140, item 4(d) are to be supervised.

b. Supervised visits shall be _____ visit(s) per week of _____ hour(s) each, to be arranged with the provider.

c. Other schedule of supervised visits is attached. (Check here and attach a sheet of paper with "DV-150, Other Schedule" for a title.)

5 Type of Provider

a. Professional (individual or supervised visitation center)

b. Nonprofessional

6 Provider's Information

Name: _____

Telephone number: _____

Address: _____

7 Costs Will Be Paid As Follows:

Mom to pay: _____ %

Dad to pay: _____ %

Other: _____

8 Contact With Provider

Mom to contact provider before (date): _____

Dad to contact provider before (date): _____

Other: _____

9 The court also orders (specify): _____

This is a Court Order.

Clerk stamps date here when form is filed.

Draft-7.20.22
Not approved by Judicial Council

1 Name of Party Asking for Protection:

2 Name of Party to Be Restrained:

3 Notice to Server

The server must:

- Be 18 years of age or older.
Not be listed in items 1 or 8 of form DV-100, Request for Domestic Violence Restraining Order.
Give a copy of all documents checked in 4 to the restrained party in 2 (you cannot send them by mail). Then complete and sign this form, and give or mail it to the party in 1.



Fill in court name and street address:

Superior Court of California, County of

Court clerk fills in case number when form is filed.

Case Number:

4 I gave the party in 2 a copy of all the documents checked:

- DV-109 with DV-100 and a blank DV-120 (Notice of Court Hearing; Request for Domestic Violence Restraining Order; blank Response to Request for Domestic Violence Restraining Order)
DV-110 (Temporary Restraining Order)
DV-105 and DV-140 (Request for Child Custody and Visitation Orders, Child Custody and Visitation Order)
FL-150 with a blank FL-150 (Income and Expense Declaration)
FL-155 with a blank FL-155 (Financial Statement (Simplified))
DV-115 (Request to Continue Hearing)
DV-116 (Order on Request to Continue Hearing)
DV-130 (Restraining Order After Hearing)
Other (specify):

5 I personally gave copies of the documents checked above to the party in 2 on:

- Date: Time: a.m. p.m.
At this address:
City: State: Zip:

6 Server's Information

Name:
Address:
City: State: Zip:
Telephone:

(If you are a registered process server):

County of registration: Registration number:

7 Server's Signature

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

Date:

Type or print server's name

Server to sign here

What is a “domestic violence restraining order”?

It is a court order that can help protect people who have been abused by someone they've had an intimate relationship with, are closely related to, or have lived with as more than just roommates.

How can a restraining order help me?

A judge can order the restrained person to:

- Not contact you, your children or relatives, or people you live with;
- Stay away from you, your children or relatives, or people you live with, your home, your job, etc.;
- Not have any firearms (guns, including "ghost guns"), firearm parts, or ammunition;
- Move out of a home that you live in;
- Obey child custody and visitation orders;
- Pay child support;
- Pay spousal support;
- Pay debt for property; and
- Give you control of property (examples: cell phone, car, home).

Does this request cost money to file?

No, filing this request with the court is free.

How long can a restraining order last?

If the judge makes a temporary order, it will last until your hearing date (court date). Your hearing is usually three weeks after you turn in your court papers. At your hearing, the judge will decide whether to grant you a long-term restraining order that can last up to five years.

How soon can I get the order?

If you decide to ask for a restraining order, you will need to complete court papers. Once you turn in your court papers, a judge will decide the same day or next business day on whether to grant you a temporary restraining order.

How old must I be to ask for one?

To ask for a restraining order on your own, you must be 12 years old or older. In some cases, the judge may ask that an adult (someone 18 years old or older), like a trusted relative, help you in your case.

What if I don't have a green card?

You can get a restraining order even if you are not a U.S. citizen. If you are worried about deportation, you may want to talk with an immigration lawyer.

Can a restraining order protect my children?

Yes, you can ask the judge to protect your children. If you are asking for a restraining order against someone you have children with, you can also ask the judge to make child custody and visitation orders. And if you think that the other parent might abduct (kidnap) your children, you can ask for orders to prevent kidnapping.

Can I use a restraining order to get divorced or terminate a registered domestic partnership?

No. These forms will not end your marriage or registered domestic partnership. You must file other forms to end your marriage or registered domestic partnership.



Am I eligible?

To qualify for a domestic violence restraining order, you must have a (1) required relationship and (2) show that the person you want a restraining order against has been abusive.

Required relationship

- Your spouse, ex-spouse, registered domestic partner, or ex-registered domestic partner;
- Someone you have a child with;
- Your parent, child, sibling, or grandparent (includes in-laws and step relationships);
- Someone you live with or used to live with (more than just roommates);

Abuse

Abuse can be spoken, written, or physical. It can be physical, sexual, or emotional. It includes threats to harm you or your family, stalking, harassment, destroying personal property, repeated contact, and disturbing the peace.

What does disturbing the peace mean?

It means to destroy someone's mental or emotional calm. Disturbing the peace includes coercive control. Coercive control means a number of acts that unreasonably limit the free will and individual rights of any person. Examples include:

- Isolating someone from their friends, relatives, or other support;
- Keeping them from food or basic needs;
- Controlling or keeping track of them, including their movements, contacts, actions, money, or access to services;
- Threats to immigration status;
- Making them do something that they don't want to do; and
- Controlling or interfering with someone's contraception (birth control, condoms); pregnancy or ability to become a parent; or access to health information.

What if I don't qualify for a domestic violence restraining order?

There are other kinds of restraining orders you can ask for. Here are some examples:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts).
- Dependent adult or elder abuse restraining order (if you are at least 65 or a dependent adult).
- Gun violence restraining order (to prevent someone from hurting themselves or others with a firearm).

Note that all restraining orders include a firearms and ammunition restriction. A gun violence restraining order gives limited protection because it only restrains the person from having firearms and ammunition. To learn more about other kinds of restraining orders, go to: <https://www.courts.ca.gov/selfhelp-abuse.htm>.

How do I ask for a domestic violence restraining order?

See [form DV-505-INFO](#), *How to Ask for a Domestic Violence Restraining Order*. The forms are available online at www.courts.ca.gov/forms. If you want a paper copy, go to any California courthouse. You can also check with your county's law library.

Will I have a court hearing (court date)?

Yes. The court will give you a day and time to attend court. If you want to attend court remotely (by phone or videoconference), go to the court's website to find out how to attend remotely. To learn more about what to expect at your hearing, read [form DV-520-INFO](#), *Get Ready for Your Restraining Order Court Hearing*, or go to: <https://selfhelp.courts.ca.gov/prepare-your-restraining-order-court-date>.



Do I need a lawyer to make this request?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center. (See below.)

Where can I find a self-help center?

Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms.

What if I need an interpreter?



If you decide to ask for a restraining order, you will need to talk to a judge. If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one.

I have a disability. How can I get help?

You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Confidential Address Program

If you are a victim of domestic violence or live with a victim of domestic violence, there is a special program called Safe At Home that you can apply for. It is a free program that would help you keep your address private. To learn more about the program, go to:

<https://www.sos.ca.gov/registries/safe-home/>.

Note that it may take several weeks to be approved.

For more information on other steps of the process

- Form DV-505-INFO, *How to Ask for a Domestic Violence Restraining Order*
- Form DV-200-INFO, *What Is "Proof of Personal Service"?*
- Form DV-520-INFO, *Get Ready For Your Restraining Order Court Hearing*
- Form DV-530-INFO, *How to Enforce Your Restraining Order*

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or

call 1-800-799-7233; 1-800-787-3224 (TTY).

Part 1: Complete court forms

Tips for completing form DV-100

You will need to complete at least three forms to ask for a domestic violence restraining order:

Required forms:

- [Form DV-100](#);
- [Form DV-109](#); and
- [Form DV-110](#).

Optional forms:

If you have a child or children with the other side, you can ask for additional protection, like child custody orders. To make these requests, you must complete two more forms:

- [Form DV-105](#); and
- [Form DV-140](#).

If you want to ask for child support or spousal support, make the request on form DV-100 (see item ⑳ or ㉑) and complete one more form:

- [Form FL-150](#).

Most court forms are public documents. What does "public" mean?

When you file papers with the court, those papers become "public." This means that anyone may ask the court to see the information you put on your papers. Also, the person you are asking for protection from will see all the information on your court papers, because you will have to have these papers personally delivered to them. This is called "personal service," and more information is available on [form DV-200-INFO, What Is "Proof of Personal Service"?](#)

How old must I be to ask for my own restraining order against someone?

To ask for a restraining order, you must be 12 years old or older. In some cases, the judge may ask that an adult (someone 18 years old or older), like a trusted relative, help you in your case.

Required relationship

At item ③, you must have one of the listed relationships between you and the person you want protection from. If none apply, go to <https://www.courts.ca.gov/selfhelp-abuse.htm> for information on other types of restraining orders you might qualify for.

Describe the abuse

At items ⑤–⑦, you must describe the abuse that happened. This part is important, because a judge will decide whether to give you a restraining order based on the information you give. For more information of what abuse means under the law, see form [DV-500-INFO, Can A Domestic Violence Restraining Order Help Me?](#)

I don't want people to see my address

You may not want someone to be able to see certain information, like your address. You do not have to give the address to where you live on form DV-100, item ①. You can use a different address, like a friend's address or P.O. box. Just be sure to get the person's permission to use their address first, because any papers the court or other side mails to you will go to the address you list in item ①. And make sure that person will tell you right away if you get mail from the court.

I don't want people to see information I provide about a child (minor)

You can ask the court to make some of the information you provide about a child private (confidential). If the court makes information about a child private, the public will not be able to see this information on your court papers. See [form DV-160-INFO](#) for help with asking the court to make a child's information private.



What if the other side has firearms (guns) or ammunition?

In item (9), list information you have about any firearms (guns), firearm parts, or ammunition that the other side might own or have access to. This information is important to the judge. The judge can notify law enforcement about any firearms, including illegal or untraceable firearms called “ghost guns.” Once notified, law enforcement must do what they can to get the firearms if there is a restraining order in place.

What does "Other orders" (item (14)) mean?

This section allows you to make any special requests that you need to prevent more abuse by the other side.

What is the difference between "Pay Debts Owed for Property (item (22)) and "Pay Expenses Caused by the Abuse (item (23))?"

If you want the other side to pay a debt owed for property, like a car or mortgage, you can make this request at item (22). If you want the other person to pay you back for damage that happened because of their abuse, like breaking your cellphone or for medical bills, you can make this request at item (23).

What is "Spousal Support" (item (25))?

If you are married to the person you want protection from or in a registered domestic partnership, you can ask a judge to order them to pay you spousal support. The amount of spousal support depends on different factors, including how much you make versus how much the other side makes. It is important to know that in California, you cannot get spousal support for "common law" marriages, where parties have lived like a married couple but never legally married. California does not recognize "common law" marriage.

What is a "Batterer Intervention Program" (item (27))?

In most cases, it is a year-long program that helps a person recognize abusive behavior so that they will stop the abuse. Unlike anger management programs, the goal of batterer intervention programs is to stop a person from using power and control in their relationships. If ordered to complete the program by a judge, the restrained person will have to pay program fees. The program will keep track of progress and attendance.

Part 2: File your court papers

Filing is when you turn in your completed court papers to the court. To file your court papers, you can call the court clerk to see find out which courthouse to go to. If you want to file online (e-file), check your local court's website for more information. To find your local court or their website, go to:

www.courts.ca.gov/find-my-court.htm.

Part 3: Get your papers from court

After you turn in your court papers, you will need to get them back from the court. Your papers will be ready the same day or the next business day. Ask the court clerk when your court papers will be ready. You may have to return to the courthouse to pick up your papers if the court cannot return them to you electronically. Look at your papers to see if the judge granted you a temporary restraining order, on form DV-110.

- ▶ If the judge **granted** you temporary protection and you want it to last longer, make sure you attend your court hearing (listed on form DV-109).
- ▶ If the judge **did not** grant you a temporary restraining order, the judge can grant you a restraining order at your court hearing (listed on form DV-109).



Part 4: Have someone serve your papers

You must have an adult personally give a copy of all your court papers to the person you want a restraining order against. It cannot be you or anyone listed on the restraining order. Serving papers can be a dangerous situation. If you want the sheriff to serve your papers, they will do so for free. For more information on service, read [form DV-200-INFO](#), *What Is "Proof of Personal Service"?*

Part 5: Get ready for and go to your court hearing

At your court hearing, the judge will decide whether to grant you a long-term restraining order that can last up to five years. You have the option of attending your hearing in-person or remotely (by phone, or videoconference if available). For information on how to attend your hearing remotely, go to the court's website. Some courts may require advance notice. At the hearing, you and the other side will have the opportunity to tell your side of the story. For more information, read [form DV-520-INFO](#), *Get Ready for the Restraining Order Court Hearing*. If you need more time to prepare your case, you may ask for a new court date. Read form [DV-115-INFO](#), *How to Ask For a New Hearing Date*, for more information.

Information about the process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Where can I find free help?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

What if I am worried about my safety?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Make arrangements before your court hearing

- **If you or a witness wants to attend court remotely (by phone or videoconference)**
Check the court's website as soon as possible to see what you need to do to attend remotely. You can use www.courts.ca.gov/find-my-court.htm to find your court's website.
- **Court interpreter:** If you need an interpreter, use [form INT-300](#) to request an interpreter or ask the court clerk how you can request one. You can also use this form to ask for an interpreter for a witness.
- **Childcare:** Find childcare because court may take all morning or afternoon, even all day. Some courts have a Children's Waiting Room, a safe place for children to wait while parents are in court. You can check with your court in advance to see if this is available.
- **Support person:** You can have someone attend court with you. The person you bring cannot speak for you but can sit next to you when your case is called (if you attend in person). If you attend by videoconference, your support person can also attend with you.
- **Disability accommodation:** You may use [form MC-410](#) to request assistance. Contact the disability/ADA coordinator at your local court for more information.

Request for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civil Code section 54.8.)

Bring evidence or witnesses to your court hearing

If you have evidence or witnesses, read the information below. Bringing evidence or witnesses is optional and not required. Your statements alone can be proof for your case. If you are the person asking for the restraining order you will have to convince the judge that abuse occurred. The judge will make a decision based on all evidence and statements made by both sides.

- **Evidence:** Evidence can include pictures, emails, medical records showing injuries, police reports, etc. If you have evidence, you will need to make it available to the judge and other side to see. Sometimes the judge cannot look at or consider certain documents. The judge will decide which documents can be included in your case. If you are attending court in person, bring three copies of your written evidence, if you have not already filed and served it on the other side. If you have evidence and want to attend your court date by phone or videoconference, contact your local self-help center for information on how to share your evidence with the judge and other side.
- **Witnesses:** You can ask the judge to allow witnesses to speak at your court hearing. If you have a lot of witnesses, you may need to complete paperwork before your court hearing. Ask your local self-help center for more information.



Tips for your court hearing

Plan what you want to say to the judge

It may help to plan out and make notes about what you want to say to the judge. If needed, you can use your notes for your court hearing. Read over the court papers in your case and write out anything else you want the judge to know. Focus on the facts and details that support your side of the story. Go over any papers you received from the other side. Try to understand what they are asking for and arguing in the case (their allegations). If you do not agree, tell the judge. Think about and write down how you want to defend against their arguments

Attend early and safely

Show up or call in to your hearing early. If you are attending online, practice using the technology, like Zoom, before your court date. If you are late, you may miss your case being called. If you might be late, try to call the court right away to let courtroom staff know that you will be late.

- ▶ If you attend in person, do not sit near or talk to the other person. If you are afraid of the other person, tell the officer who is in the courtroom.
- ▶ If you attend by videoconference, and you don't want the other side to see where you are or your phone number (if you call in), talk with an advocate about how to safely attend using videoconference. This may include using a virtual background or using another phone number to call in. You can contact the National Domestic Violence Hotline for free help. See page 4 for information.

Follow courtroom rules

Here are some common rules:

- Put your cellphone on silent mode, if you're attending in person.
- Do not eat or drink during your hearing, except for water.
- Do not wear a hat or sunglasses on your head.
- When speaking to the judge, call the judge "Your honor" or "judge."
- Don't interrupt anyone who is speaking.
- Wait until it's your turn to speak and let the judge know you want a chance to speak.

What will happen during my case?

The judge will give both sides time to speak

Usually, the judge asks the person who wants the restraining order to talk first. No matter who talks first, you will both get a chance to speak. Attending court can be difficult and stressful but it is important not to talk over anyone. If you have something to say and it is not your turn, let the person finish talking and then ask the judge for permission to speak.

The judge will reschedule your court hearing or make a decision

- ▶ There are a few reasons why the judge may have rescheduled your court date. This is called a continuance. Here are some examples:
 - Person asking for the restraining order did not serve the other side in time (by the deadline).
 - The judge needs to set aside more time to hear your case.
 - If the restrained person has not filed a response (form DV-120) and asks for more time to prepare for the case, the judge must grant their request if they ask for one at the first court date.

If the judge reschedules your court date, the judge will usually extend the temporary restraining order, if one was granted. If the judge reschedules your court date, make sure you get a new order (form [DV-116](#)).

- ▶ If the restraining order is denied, this means that the judge has decided that there was not enough evidence to prove that abuse happened. This means that your restraining order case is finished and any temporary protection expires.
- ▶ If the restraining order is granted, this means that the judge has decided that there is enough evidence to prove that abuse happened. You should go over the restraining order to make sure you understand all the orders. See the next page for information on next steps.



What do I do after a restraining order is granted?

If you've had your day in court and the judge granted you a long-term restraining order, you may have a couple more steps to take. Make sure all steps are completed as soon as possible. If you do not, the police may not be able to enforce your restraining order.

Protected person:

Restrained person:

- ① Your restraining order will be on form DV-130. If you don't have a form DV-130 that is signed by the judge, check with the clerk to see if one was filed. If it has, ask for a copy. If one has not been filed, you will need to fill out:
 - [Form DV-130](#) (required).
 - [Form DV-140](#) (required if court made orders for your children).
 - Form [FL-342](#), *Child Support Information and Order Attachment*, or form [FL-343](#), *Spousal, Domestic Partner, or Family Support Order Attachment*, if the judge orders child support and/or spousal support.
- ② Turn in your completed form(s) to the court clerk. The clerk will then give it to the judge to review and sign. You will need to pick it up once it is signed. Ask the court clerk when your forms will be ready. There is no fee for turning in this form, and you should receive some free copies.
- ③ Look at form DV-130, *Restraining Order After Hearing*, to see if the judge ordered you to serve the form by mail or in person. If you are ordered to serve the form by mail, this means your server only has to mail a copy of the restraining order. But, serving someone in person is always best. When you mail court papers, it may be hard to prove that the person actually received a copy especially if the person moves a lot. Learn more about service at: <https://selfhelp.courts.ca.gov/DV-restraining-order/serve-longterm-order>.

- ① You must obey orders the judge makes. The orders will be on form [DV-130](#). If you do not obey them, you could be arrested, or convicted of a crime.
- ② If you have any prohibited items (firearms (guns), firearm parts, ammunition), you must bring all items to a licensed gun dealer or police. For more information, read [form DV-800-INFO/JV-270-INFO](#), *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?* The information is also available online at: www.selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders. Free help is also available at your local self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp.



What if I have a child with the other side?

If you ask for child custody or visitation (parenting time) orders, the judge may have you meet with a court professional to see if you and the other parent can agree on parenting time. This process is called "mediation." You can ask to meet separately and not with the other side in your case. Ask the court staff how you can make this request. For more information on mediation, go to: www.selfhelp.courts.ca.gov/child-custody/what-to-expect-mediation.

What happens if I don't attend the court hearing?

- ▶ If you asked for a restraining order and you do not attend the hearing, any protection you have in this case will expire. If the other side attends the hearing and you don't, the judge could make some orders against you, like lawyer's fees. To get another restraining order, you would have to fill out and file a new set of forms. If you've changed your mind and no longer want a restraining order, talk with self-help center staff or a lawyer.
- ▶ If someone asked for a restraining order against you, and you do not attend the hearing, a judge may grant a restraining order against you without hearing your side. The order can last for up to five years, and can include orders regarding children or property that you have with the person asking for protection.

Information about the court process is also available online

<https://selfhelp.courts.ca.gov/DV-restraining-order/process>.

Where can I find a self-help center?

Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Report a violation to the police

Now that you have a domestic violence restraining order, you may need to enforce it if the restrained person violates the order. Enforce usually means to call the police to report a violation. To have the police enforce your order, call 911. If the restrained person has firearms (guns), “ghost guns” (a homemade or unregistered gun), or other weapons, make sure to tell the police.

What can the police do?

The police can arrest the restrained person for violating the restraining order. Based on your report of the violation, the district attorney or prosecutor can charge the restrained person with a crime. If you have questions about a case or whether a criminal case was filed, you can call the District Attorney's Office in your county, or the county where the violation happened. The restrained person can go to jail or pay a fine if convicted of violating your restraining order.

Ask the judge to act on the violation

Violating the restraining order means that the restrained person did not obey the judge's order. This could have consequences for the restrained person. For example, if you have a child with the restrained person, a violation could affect the restrained person's parenting time with your child. You can ask the judge to change custody or visitation orders because of the violation. You can also ask the judge to order the restrained person to pay you or the court money as “sanctions” or to hold the restrained person “in contempt of court,” and the restrained person can be ordered to pay money to the court, do community service, and/or spend up to five days in jail per violation. For more information about what a judge can do, contact your local self-help center or talk to a lawyer. For more information about self-help centers, see page 2.

What form is my restraining order on?

Here are some examples:

- DV-130
- DV-730
- CR-160
- DV-110
- DV-116
- EPO-001

Keep a copy of your restraining order with you

You should have a copy of your restraining order with you at all times. Make sure it is the **most recent** restraining order and still in effect (not expired). If you have more than one, have a copy of each one. If you have a cellphone, use your cellphone to take a picture of all the pages so you always have proof of it. If the restrained person was not at the court hearing, make sure you have a copy of the proof of service form too. The proof of service proves that the restrained person knows about the restraining order and must follow the order.

What if the judge granted orders to protect my children?

You can give a copy of the restraining order to any place that your child will be. If the restrained person is not allowed to have access to your child's medical records, school records, or other information, make sure to let your child's providers know right away. It may be a good idea to change your passwords to any shared online accounts, and update your contact information with those providers.

Give copies of the order to other people

If you want other people to know about your restraining order and help you enforce it, give them a copy. This is optional and should only be done if it is safe to do so. Here are some examples:

- Your child's school or childcare, if your restraining order protects your child.
- Other people protected by your restraining order, when appropriate.
- Your employer, if you are worried about being harassed or abused at work.
- Local police department: Giving a copy to your local police department is optional because all law enforcement agencies have access to restraining orders through a law enforcement database.



What if I have more than one restraining order against the same person?

Keep a copy of all active restraining orders with you. If you call the police to enforce the order, the police will need to follow the rules of enforcement (see "Priority of Enforcement" listed on the back of forms DV-110, DV-130, and CR-160). If you have questions about any of the orders, contact your local self-help center or talk to a lawyer.

Where can I find a self-help center?

Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms.

Where can I find other help?

The National Domestic Violence Hotline provides free and private safety tips. Help is available every day, 24 hours a day, and in over 100 languages. Visit online at www.thehotline.org or call 1-800-799-7233; 1-800-787-3224 (TTY).

Clerk stamps date here when form is filed.

Draft- Not approved by Judicial Council
7.26.22

1 Person Asking For Protection:

Name: _____

2 Your Information (Restrained Person)

a. Your Name: _____

b. Your Address

(This address could be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

c. Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

3 To the Restrained Person:

If a judge has ordered you to turn in, sell, or store your firearms (guns), firearm parts, and ammunition, use this form to prove to the judge that you have obeyed their orders. Take this form to a law enforcement officer or a licensed gun dealer to complete 4 or 5. For more information on how to properly turn in your items, read form DV-800-INFO/JV-270-INFO, How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

4 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone number: _____ Email address: _____

Items Surrendered

a. Firearms, firearm parts, and ammunition transferred on:

Date: _____ Time: _____ [] a.m. [] p.m.

b. List of items. (List all the items surrendered by the person in 2. You may attach a separate form from your agency (e.g., a property report), use 6, or both.) Check below if you have attached a separate form:

[] Separate form is attached. (If it does not include all surrendered items, list additional items in 6.)

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

Signature of law enforcement agent _____



5 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in (2).)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone number: _____ Email address: _____

Items Stored or Sold

a. Firearms, firearm parts, and ammunition transferred on:

Date: _____ Time: _____ a.m. p.m.

b. List of items. (List all the items surrendered by the person in (2). You may attach a separate form (e.g., DOJ's Report of Firearm Acquisition), use (6), or both.) Check below if you have attached a separate form:

Separate form is attached. (If it does not include all surrendered items, list additional items in (6).)

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

▶ Signature of licensed gun dealer _____

6 List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Ammunition

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Use "DV-800/JV-270, List of Surrendered Items" as a title.

7 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, or ammunition?

No

Yes *(If yes, check one of the boxes below:)*

a. I filed a *Receipt for Firearms, Firearm Parts, and Ammunition* (form DV-800/JV-270) or other proof for those items with the court on *(date)*: _____

b. I am filing the proof for those firearms (guns), firearm parts, or ammunition along with this proof.

c. I have not yet filed the proof for the other firearms (guns), firearm parts, or ammunition. *(Explain why not):*

Your signature

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

Date: _____

Type or print your name

Sign your name

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- If law enforcement served you with the restraining order, give a copy to the law enforcement agency that served you with the restraining order.
- Keep a copy for yourself.

Note that failure to file a receipt with the court and with the law enforcement agency is a violation of the judge's order.

DV-800-INFO/JV-270-INFO How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?

What do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or own:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts includes any receiver, frame, unfinished receiver, or unfinished frame (also called “ghost guns”); and
- Ammunition, including bullets, shells, cartridges, and clips.

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items for safekeeping or to destroy,
or
- A licensed gun dealer, who can buy or store your firearms. If you have firearm parts or ammunition, call ahead for more information.

When do I turn in, sell, or store prohibited items?

Immediately, if law enforcement asks you to. Otherwise, within 24 hours of being served, or told by a judge to do so.

Can I give my prohibited items to family or friends?

No, only to law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact law enforcement or a licensed gun dealer about fees and whether they have space to store your items.

How do I take prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. They will give you specific instructions, like making sure your firearms are unloaded and in the trunk of the car. Take a copy of the restraining order with you. **Do not** bring your firearms to court.

If I turn in my firearms to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after a restraining order expires. Ask the law enforcement agency.

After I give my firearms to law enforcement, can I change my mind?

Yes. You are allowed to make one sale through a licensed gun dealer. To do this, a licensed gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the firearms you are selling.

How do I prove to the judge that I have complied with (obeyed) the orders?

- ① Bring a copy of form DV-800/JV-270, *Receipt for Firearms, Firearm Parts, and Ammunition*, with you, and ask the dealer or officer to complete and sign the form.
- ② File form DV-800/JV-270 with the court. Make sure you get two copies. All receipts must be filed with the court within 48 hours from the time you were served with the restraining order, unless the judge gave you another deadline.



Do I need to bring a copy of the receipt to anyone besides the judge?

Yes, if:

- ▶ Law enforcement served you with the restraining order, you must give them a copy of your receipt (e.g., form DV-800/JV-270). If you don't know who served you with the restraining order, ask the court clerk for a copy of the proof of service form for the restraining order. The law enforcement agency is listed on that form.
- ▶ You did not obey the order when you were supposed to, and the court notified law enforcement or a prosecuting attorney. (Tip: Look at forms DV-110, DV-130, or DV-820 to see if the court notified another agency. If the court did, give a copy of the receipt to the agencies listed on any of the forms).

Where can I find free help?

Free legal help is available at your court's self-help center. Find your local court's self-help center at www.courts.ca.gov/selfhelp. Self-help center staff will not act as your lawyer but may be able to give you information to help you decide what to do in your case, and help you with the forms. Staff may also refer you to other agencies who may be able to help you.

More information on how to obey these orders is available online

<https://selfhelp.courts.ca.gov/respond-to-DV-restraining-order/obey-firearms-orders>.

DV-820

Prohibited Items Finding and Orders

Case Number: _____

This form is attached to (check one): DV-110 DV-116 Other: _____

1 Restraint Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

a. Listed on form DV-110, *Temporary Restraining Order*

b. Listed below:

Firearms (guns) and/or firearm parts

Description (include serial number, if known)	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "DV-820, Restraint Person Has Prohibited Items" at the top, and attach it to this form.

2 Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

The restrained person must attend the court hearing listed below to prove that all prohibited items have been properly turned in, sold, or stored. If the restrained person does not attend the court hearing listed below, a judge may find that the restrained person has violated the restraining order and notify law enforcement and a prosecuting attorney of the violation.

Name and address of court, if different than court address listed on the front of this order



Date: _____ Dept.: _____
Time: _____ Room: _____

This is a Court Order.



3 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that the restrained person has not fully complied with (obeyed) the orders previously granted on (date): _____. The court has not received a receipt or proof of compliance for all the items listed in **1**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation (*name of agency*): _____.

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation (*prosecuting agency*): _____.

This is a Court Order.

Clerk stamps date here when form is filed.

**Draft-7.21.22
Not approved by
Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

This notice is provided to the agency or agencies listed below, as required by the Family Code.

1 Protected Person

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied with Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in **2** has firearms (guns), firearm parts, or ammunition in violation of a restraining order. The restraining order granted by the court is attached to this form.

(Check all that apply):

a. Notice to Law Enforcement Agency *(name of agency or agencies):*

(Notice is provided pursuant to Family Code section 6306(f). The agency must take all actions necessary to obtain firearms and ammunition.)

b. Notice to Prosecuting Agency *(name of agency):* _____

(Notice is provided pursuant to Family Code section 6389(c)(4).)

4 Outstanding Warrant(s)

The court has found that the person listed in **2** has one or more outstanding warrants. The restraining order granted by the court is attached to this form. Notice of the warrant is provided to the agency listed below, as required by Family Code section 6306(e). The agency must take all actions necessary to execute the warrant(s).

Notice to Law Enforcement Agency *(name of agency):* _____

5 Additional Information

The court has conducted a background search pursuant to Family Code section 6306. In addition to the information provided above, the court is attaching the following information found in the background search.

(briefly describe information): _____

6 Number of pages attached to this form, if any: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



—Clerk's Certificate—

[seal]

I certify that I am not a party to this case and that a true copy of the *Noncompliance with Firearms and Ammunition Order, or Warrant* (form DV-830), was sent to the agency or agencies listed on page 1:

a. **Law enforcement agency listed in 3a**

(1) by fax, email, or other electronic means by personal delivery

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or delivery: _____

b. **Prosecuting agency listed in 3b**

(1) by fax, email, or other electronic means by personal delivery

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or delivery: _____

c. **Law enforcement agency listed in 4, if different than 3a**

(1) by fax, email, or other electronic means by personal delivery

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or delivery: _____

Date: _____ Clerk, by _____, Deputy

DV-840/FL-840 Notice of Compliance Hearing for Firearms and Ammunition

Clerk stamps date here when form is filed.

Draft- 8.10.22
Not approved by the
Judicial Council

1 Protected Person

(name): _____

2 Restrained Person

(name): _____

Fill in court name and street address:

Superior Court of California, County of

3 Notice of Compliance Hearing

To the person in **2** :

The court has issued a domestic violence restraining order against you. You must attend the court hearing on the date and time listed below. At the hearing, you must prove that you have properly turned in, sold, or stored any firearms (guns), firearm parts, or ammunition that you have or own, as required in the restraining order and listed below in **4**.

Court fills in case number when form is filed.

Case Number:



Date: _____ Dept.: _____
Time: _____ Room: _____

Name and address of court, if different from the one listed above:

4 No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.

b. **Prohibited items are:**

- (1) Firearms (guns);
- (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
- (3) Ammunition.

c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.

d. If law enforcement asks you for your prohibited items, you must turn them over immediately.

e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.



5 **Restrained Person Has Prohibited Items**

The court has found that you have the following prohibited items:

Firearms and/or firearm parts		Proof of compliance received by the court
Description <i>(include serial number, if known)</i>	Location, if known	
(1) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(2) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(3) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____
(4) _____	_____	<input type="checkbox"/> <i>(date)</i> : _____

Ammunition		Proof of compliance received by the court
Description	Amount, if known	Location, if known
(1) _____	_____	_____ <input type="checkbox"/> <i>(date)</i> : _____
(2) _____	_____	_____ <input type="checkbox"/> <i>(date)</i> : _____
(3) _____	_____	_____ <input type="checkbox"/> <i>(date)</i> : _____
(4) _____	_____	_____ <input type="checkbox"/> <i>(date)</i> : _____

Check here to list additional items. List them on a separate piece of paper, write "DV-840/FL-840, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

6 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with (obeyed) the orders previously granted on *(date)*: _____. The court has not received a receipt or proof of compliance for all the items listed in **5**.

b. Notify Law Enforcement

The court will immediately notify the following law enforcement agency of this violation *(name of agency)*: _____.

c. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation *(prosecuting agency)*: _____.

7 **Service**

The person in **2** does not have notice of these orders. The person in **1** must have the person in **2** served by:

a. Personal service by *(date)*: _____

b. Mail, at the person in **2**'s last known address by *(date)*: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

EPO-001

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

LAW ENFORCEMENT CASE NUMBER:

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

1. PROTECTED PERSONS (insert names of all persons protected by this Order):

2. RESTRAINED PERSON (name): Gender: [] M [] F [] X
Ht.: Wt.: Hair color: Eye color: Race: Age: Date of birth:

3. TO THE RESTRAINED PERSON:

- a. YOU MUST NOT harass, attack, strike, threaten, assault...
b. YOU MUST NOT contact, either directly or indirectly...
c. YOU MUST stay away at least: yards from each person...
d. YOU MUST NOT take any action, directly or through others...
e. YOU MUST NOT own, possess, purchase, receive, or attempt to purchase...
4. (Name): is given temporary care and control of the following minor children...

5. Order Expires on (date): at (time): EXPIRES ON THE 5TH COURT DAY OR 7TH CALENDAR DAY, WHICHEVER IS EARLIER. DO NOT COUNT THE DAY THE ORDER IS GRANTED.

6. To Person in 1: To ask for a longer restraining order, ask for help at your local court. If there is an open juvenile case, file in that case. (Name and address of court):

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): granted this Order on (date): at (time):

APPLICATION

- 9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse...
10. Firearms or ammunition were (check all that apply): [] observed [] reported [] physically searched for [] seized
11. The persons in 1 and 2 live together. The person in 1 asks that the person in 2 immediately move out...
12. The person in 1 has minor children in common with the person in 2, and a temporary custody order is requested because of the facts alleged in item 9. A custody order [] does exist. [] does not exist.

By: (PRINT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)
Agency: Telephone No.: Badge No.:

PROOF OF SERVICE

- 13. I personally delivered (served) copies of this Order to the person named in 2 on: (date): at (time):
Address where person in 2 was served:
14. At the time of service, I was at least 18 years of age and not a party to this cause. [] I am a California law enforcement officer.
15. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

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

Date: (TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-001

TO THE RESTRAINED PERSON: VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR IT MAY BE PUNISHABLE AS A FELONY. THIS PROTECTIVE ORDER **MUST** BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. THE TERMS AND CONDITIONS OF THIS ORDER REMAIN ENFORCEABLE REGARDLESS OF THE ACTS OF THE PARTIES; IT MAY BE CHANGED ONLY BY ORDER OF THE COURT (PENAL CODE SECTION 13710(b)).

YOU ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE ANY ITEM LISTED IN 3e. (PENAL CODE SECTIONS 29825(a), 30305(a).) A VIOLATION IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. YOU MUST IMMEDIATELY SURRENDER THE ITEMS IN 3e IF ASKED BY LAW ENFORCEMENT. IF NOT ASKED BY LAW ENFORCEMENT TO SURRENDER, YOU MUST TURN IN THE ITEMS IN 3e TO LAW ENFORCEMENT, OR SELL THEM TO, OR STORE THEM WITH, A LICENSED GUN DEALER WITHIN 24 HOURS OF RECEIVING THIS ORDER. PROOF OF SURRENDER, SALE, OR STORAGE MUST BE FILED WITH THE COURT WITHIN 48 HOURS OF RECEIPT OF THIS ORDER.

To the restrained person: This order will last until the date and time in item 5 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney on any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

A la persona bajo restricción judicial: Esta orden durará hasta la fecha y hora indicada en el punto 5 al dorso. La persona protegida puede, sin embargo, obtener una orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado inmediatamente para que él o ella le pueda ayudar a responder a la orden.

To the protected person: This order will last only until the date and time noted in item 5 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 6. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 6, or if there is a juvenile dependency action pending, you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody and Visitation Order* from the court. You may seek the advice of an attorney on any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

A la persona protegida: Esta orden durará sólo hasta la fecha y hora indicada en el punto 5 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el punto 6. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el punto 6, o si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés **Welfare and Institutions Code**. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*). Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado inmediatamente para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

If a child is in danger of being abducted: This order will last only until the date and time noted in item 5 on the reverse. You may apply for a child custody order from the court.

En el caso de peligro de secuestro de un niño o de una niña: Esta orden será válida sólo hasta la hora y fecha indicada en el punto 5 al dorso. Usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*).

To law enforcement: The emergency protective order shall be served upon the restrained person by the officer, if the restrained person can reasonably be located, and a copy shall be given to the protected person. A copy shall be filed with the court as soon as practicable after issuance. Also, the officer shall have the order entered into CLETS (CARPOS). The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order. A law enforcement officer who acts in good faith to enforce an emergency protective order shall not be held civilly or criminally liable.

This emergency protective order is effective when made. This order shall expire on the date and time specified in item 5 on the reverse. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons to the extent the provisions of this order are more restrictive. In other words, the provisions in this emergency protective order take precedence over the provisions in any other protective order, including a criminal protective order, if (1) the person to be protected is already protected by the other protective order, (2) the person to be restrained is subject to that other order, and (3) the provisions in this emergency order are more restrictive than the provisions in that other order. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.

SPR 22-170

Domestic Violence: Rule and Form Changes to Implement New Laws

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

	Commenter	Position	Comment	Committee Response
1.	California Partnership to End Domestic Violence by Christine Smith, Public Policy Coordinator	AM	<p>Does the proposal appropriately address the stated purpose? Yes, this proposal appropriately addresses the stated purpose.</p> <p>Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)? We are in alignment with the comments submitted by Giffords Law Center.</p> <p>Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete? Yes, this is a significant improvement from the previous version. We appreciate this change to make it easier for self-represented litigants, many of whom are domestic violence survivors.</p> <p>Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? DV-105: The name of this form has been changed, but it was not highlighted on the draft forms as was other new language. This new title could be very confusing to SRLs because this new name does not specify “custody” and “visitation” in the title.</p>	<p>Thank you for reviewing and submitting comments for this proposal.</p> <p>See responses to the Giffords Law Center to Prevent Gun Violence.</p> <p>Thank you for your response. The committee agrees that the new layouts for custody and visitation are more user-friendly and recommends using the new format on form DV-105.</p> <p>In the proposal circulated with the Invitation to Comment the committee recommended combining forms DV-105 and DV-108, and to change the title to encompass those additional orders. Based on user-testing and comments received, the committee recommends keeping the child abduction orders on a separate form. As a result, the committee recommends reverting back to the existing title of form DV-105, “Request for Child Custody and Visitation Orders.” Additionally, at item 15 of form DV-100, the committee has added examples of orders that may be requested on form DV-105, including no visitation, supervised visitation, and orders to stop access to children’s information and records.</p>

SPR 22-170

Domestic Violence: Rule and Form Changes to Implement New Laws

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

	Commenter	Position	Comment	Committee Response
			<p>DV-105A: At the top where the petitioner would check the box identifying that the form is attached to the DV-105, to be clearer the language should specifically state that the form should only be used if the address information cannot fit on the DV-105. When included as part of the very thick standard forms packet given to SRL, they will think they have to use this form in every case unless it is very clear this form is only to be used in certain limited circumstances. Something like, “Only use this form if the DV-105 does not have enough space for you to list the residence history for all your children.”</p>	<p>The committee agrees and has changed the instruction to make it more clear when form DV-105(A) should be used.</p>
			<p>DV-105</p> <p>The draft language is vague and unclear as to how “safe” is determined. This may lead a self-represented petitioner to understand that they could be the one to determine the child’s safety. To be clear, this option should say: “No visitation, until the Court decides it is safe for the children to visit with the person in 2.”</p>	<p>This section has been reorganized and no longer includes the language identified by commenter.</p>
			<p>DV-105 Item 7.b. The link to the website is only limitedly useful because very few self-represented petitioners complete the forms on the web. Also, the website does not appear to be available in languages other than English. An INFO page with this information in a variety of languages would be more useful than this link.</p>	<p>The committee agrees that having an information form to address supervised visitation and to explain other issues related to the content on form DV-105 would be helpful. The committee will consider creating a new information form for this purpose in a future cycle. In the meantime, information will be made available online on the statewide website, which will also be available in Spanish.</p>

Domestic Violence: Rule and Form Changes to Implement New Laws

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

	Commenter	Position	Comment	Committee Response
			<p>Re the Prevent Child Abduction (Kidnapping) instruction box: “If you do not want to ask for these orders, do not complete the rest of this form.” Does not seem clear enough for a self-represented litigant, who often receives these forms as part of a thick packet and does/can not differentiate one form from another. It would be clearer to say in bold something like, “If you do not want to ask for these orders, do not complete the following Sections 11 through 16.”</p>	<p>Based on comments and user-testing, the committee recommends keeping the child abduction request (on form DV-108) and orders separate from the child custody and visitation orders. The top of form DV-108 also includes an instruction for when the litigant should complete the form.</p>
			<p>Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example? No, the examples are appropriate and comprehensive.</p>	<p>The committee agrees that the examples are appropriate. One change was made to the example, in response to a comment received. The committee changed the example to include trying to interfere or control “access to health information,” and not just access to “related health information.”</p>
			<p>Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? The proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm It would be confusing to have this on judicial council forms, since these would be handled by Family Court Services.</p>	<p>The committee believes that having a space on the form for the judicial officer to state their reasons for granting unsupervised visit would be helpful. This new item is at 11a on form DV-140. The committee also recommends adding at item 7c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).</p>
2.	Hon. Christine Donovan, Judge of the Superior Court of Solano County	NI	<p>My comment concerns the DV-110 form. The DV-130 form has a section for “original order” and “_____ amended order” at the top of page 1. However, the DV-110 does not have this same option, even though courts can (and often do) issue amended TROs, a situation contemplated by the DV-116 in Item 5(b) on page 1. This means that courts are forced to doctor the DV-110 to note</p>	<p>The committee has made this addition.</p>

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Domestic Violence: Rule and Form Changes to Implement New Laws

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

	Commenter	Position	Comment	Committee Response
			that it is an amended order. I propose that the section for “original order” and “_____ amended order” on the DV-130 also be added to the DV-110 form.	
3.	Family Violence Appellate Project By Cory Hernandez, Staff Attorney Oakland	NI	<p>On behalf of Family Violence Appellate Project (FVAP), I write to offer comments on ITC SPR22-20.</p> <p>FVAP is a legal service support center and the only nonprofit organization in California dedicated to representing domestic violence survivors in civil appeals for free. FVAP is devoted to ensuring domestic violence survivors can live in healthy safe environments, free from abuse. This includes a commitment to improving how survivors—and all litigants—are treated in family and civil court.</p> <p>Implementing New Firearms Laws (SB 320, AB 1057) We join in the comments from Giffords Law Center to Prevent Gun Violence, as well as the California Partnership to End Domestic Violence.</p> <p>Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)?</p> <p>Yes, helpful on the firearms seizure question.</p> <p>Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete?</p>	<p>Thank you for reviewing and submitting comments for this proposal.</p> <p>See responses to comments submitted by Giffords Law Center to Prevent Gun Violence and the California Partnership to End Domestic Violence</p> <p>The goal of indicating the actions “stored” or “seized” is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee recommends using, “stored,” or “to be destroyed.”</p> <p>Thank you for your response. The committee agrees that the new layouts for custody and visitation are more user-friendly and recommends using the new format on form DV-105.</p>

SPR 22-170

Domestic Violence: Rule and Form Changes to Implement New Laws

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

	Commenter	Position	Comment	Committee Response
			Yes, helpful new layout for DV-105, items 6, 7, and 8 (responding to two questions here).	
			<p>Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example?</p> <p>No, no other examples of reproductive coercion needed.</p>	The committee agrees that the examples are sufficient. One change was made to the example, in response to a comment received. The committee changed the example to include trying to interfere or control “access to health information,” and not just access to “related health information.”
			<p>Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? The proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm</p> <p>Yes, SB 654 language should be included on the DVRO forms.</p>	The committee believes that having a space on the form for the judicial officer to state their reasons for granting unsupervised visit would be helpful. This new item is at 11a on form DV-140. The committee also recommends adding at item 7c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).
			DV-100, Request for DVO	
			On page 12, Heading section is “Automatic Orders That a Judge Can Make Right Away.” The use of the word “can” suggests that the firearm restriction is discretionary instead of mandatory.	The committee has changed the section heading to “Automatic Orders if the Judge Grants Restraining Order”.
			Also on page 12, to track language of the statute and to make all forms consistent, it might be helpful to state “firearms, firearms parts, including unfinished receivers and handgun frames, and ammunition” or to use the language describing prohibited items in form DV-110: firearms, including any handgun, rifle, shotgun, assault weapon); firearms parts (any receiver, frame or	The committee has added the examples of firearms and ammunition, and the meaning of firearm parts to item 9, but does not recommend including the examples and meaning of firearm parts to item 29, as suggested by commenter. At item 29, the committee prefers using the simplified list of “firearms (guns), firearm parts, and ammunition” as it is easier to read and understand. The full

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Domestic Violence: Rule and Form Changes to Implement New Laws

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	Commenter	Position	Comment	Committee Response
			<p>unfinished receiver/frame as defined in Penal Code section 16531) and ammunition. Suggest that all forms are consistent in how they refer to firearms and firearms parts.</p>	<p>definition (recently expanded by AB 1621 although still encompassed by the phrases in the form above) is being added to the California Courts Self Help website.</p>
			<p>DV-109, Notice of Court Hearing On page 3, section titled “To the Person in 2,” suggest changing the last sentence so that all forms are consistent and that they track the language of the statute. Suggested to state, “firearms, firearms parts, including unfinished receivers and handgun frame, and ammunition,” or to use the language describing prohibited items in form DV-110, to wit, “firearms, including any handgun, rifle, shotgun, assault weapon); firearms parts (any receiver, frame or unfinished receiver/frame as defined in Penal Code section 16531) and ammunition.”</p>	<p>Same comment as above.</p>
			<p>DV-110, Temporary Restraining Order On page 2, item 5(e), some language in this item is not reader-accessible. The second sentence is also potentially confusing because it is unclear what law enforcement agency the restrained person must surrender the firearms, firearms parts, or ammunition to. Potential language could be: “If law enforcement served you with a restraining order, you must immediately surrender (or give) any of the prohibited items listed in 5b to the officer, if the officer asks for them. Within 48 hours, you must also file a receipt that proves you have turned in or sold all of the prohibited items with the law enforcement agency that served you with the restraining order.”</p>	<p>This item has been revised. At 5(d), it now states that the restrained person must surrender items, if asked by law enforcement. The committee has also accepted commenter’s suggestion to specify that the law enforcement agency that must be provided a receipt is the agency that served the respondent with a copy of the restraining order.</p>

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			<p>DV-120, Response to Request for DVRO On page 6, item 26(b) lists prohibited items as “(guns, firearms, prohibited firearm parts, or ammunition).” Prohibited items in other forms are referenced/defined differently. As examples:</p> <ul style="list-style-type: none"> • DV-100 states “Guns, firearms, firearms parts, or ammunition” • DV-109 states “firearms, firearms parts, and ammunition.” • DV-110 states “firearms, including any handgun, rifle, shotgun, assault weapon); firearms parts (any receiver, frame or unfinished receiver/frame as defined in Penal Code section 16531) and ammunition.” <p>It is suggested that consistent language is used throughout all of the forms when referencing prohibited items. DV-110 has the most comprehensive definition of prohibited items. If this full definition is not used in each form, suggested that “guns, firearms, firearms parts, including unfinished receivers and frames, or ammunition” is used.</p>	<p>In deciding on the level of detail needed in each section of every form, the committee considers several factors, including whether content is easy to read and understand. While the examples of firearms and ammunition are helpful, including them in every section in which prohibited items are referenced would make those sections harder to read and understand. The committee has decided to list these examples on information forms, and the request (form DV-100), at item 9. For the order forms, the examples of firearms and ammunition are not listed, but the meaning of firearm parts (i.e. any receiver, frame or unfinished receiver/frame as defined in Penal Code section 16531) is provided.</p> <p>In some sections, the committee prefers to use a simplified list of prohibited items (firearms (guns), firearm parts, and ammunition) which it will use consistently when the simplified list is appropriate.</p>
			<p>DV-120-INFO</p>	
			<p>Page 1, item titled “What does the order do?” In this item “ghost guns” is included. Agree with the use of ghost guns here as it is the instruction sheet, again suggest using language that is used on the other forms to reference prohibited items so that all of the forms/information sheets are consistent.</p>	<p>The committee agrees to use the term “ghost guns” on the INFO form as this may help identify unserialized or homemade guns and parts. Examples of firearms and ammunition are not provided on page 1 but are provided at the top of page 2.</p>
			<p>Page 2, item 1, states that restrained person must turn in any “guns, firearms, firearms parts, or ammunition.” Suggest that consistent language is</p>	<p>As stated above, the level of detail needed will depend on the purpose of the form or section. For this section, the committee recommends including</p>

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			<p>used to reference what prohibited items must be relinquished. (See comments above)</p>	<p>as much detail as possible so the respondent understands what they should not have or own.</p>
			<p>DV-130</p> <p>Page 2, item 7(e), some language in this item is not reader accessible. The second sentence is also potentially confusing because it is unclear what law enforcement agency the restrained person must surrender the firearms, firearms parts, or ammunition to. Potential language could be: “If law enforcement served you with a restraining order, you must immediately surrender (or give) any of the prohibited items listed in 5b to the officer, if the officer asks for them. Within 48 hours, you must also file a receipt that proves you have turned in or sold all of the prohibited items with the law enforcement agency that served you with the restraining order.”</p>	<p>This item has been revised. At 5(d), it now states that the restrained person must surrender items, if asked by law enforcement. The committee has also accepted commenter’s suggestion to specify that the law enforcement agency that must be provided a receipt is the agency that served the respondent with a copy of the restraining order.</p>
			<p>Page 3, item 9(a). It might be helpful to have the court list out which prohibited items the restrained person has not relinquished.</p>	<p>The committee did not accept this suggestion as doing so would make this item more complex and potentially harder to understand by self-represented litigants. However, the committee did include a statement that all prohibited items, including any prohibited items in item 8 (prohibited items that court has determined that the restrained person has) must be surrendered.</p>
			<p>DV-500-INFO</p> <p>Page 1, Section titled “How can the restraining order help me?” states that the court can order the restrained person to not have any “firearms (including “ghost guns”) firearms parts, or ammunition.” In this section “ghost guns” is</p>	<p>The committee agrees to use the term “ghost guns” on the INFO form as this may help identify unserialized or homemade guns or gun parts. As stated above, the level of detail needed will depend on the purpose of the form or section. Since the request form itself contains examples of</p>

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			<p>included. Though, agree with the use of ghost guns here as it is the instruction sheet, again suggest using language that is used on the other forms to reference prohibited items so that all of the forms are consistent/informational sheets are consistent. (See comments above.)</p>	<p>firearms, firearm parts, and ammunition, that level of detail is not needed on the information form.</p>
			<p>DV-800-INFO Page 1, Heading section “How do I prove to the judge that I have complied with the order?” Some forms (such as DV-800/JV-720) use the word “obey” while other sections the language “complied with” is used. Obey might be more reader-accessible. It may be beneficial to state “How do I prove to the judge that I have complied with (obeyed) the order?”</p>	<p>The committee has made this change.</p>
			<p>DV-820 Page 1, item 1, states that “the court finds you have firearms, firearm parts, or ammunition.” Again, suggest that language describing prohibited items is consistent on all forms. (See comments above.)</p>	<p>For this section, the committee recommends using “firearms (guns), firearm parts, or ammunition.” This is a simplified list that is used on other forms to capture the general categories of prohibited items.</p>
			<p>Page 2, item 3. Both the heading and section A use the term “complied with.” As stated before, some sections in the various forms state “obey” whereas others state “complied with.” It might be helpful to have in parenthetical the word obey when using “complied with” for the first time on any give form to ensure reader accessibility.</p>	<p>The committee has made this change on form DV-820.</p>
			<p>DV-830</p>	

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			<p>Page 1, item 3, states “guns, firearms, firearms parts, or ammunition.” (See comments above regarding using consistent language in all forms to describe prohibited items.)</p>	<p>This has been changed to “firearms (guns), firearm parts, or ammunition.”</p>
			<p>Page 2, there is an option for the court to mail a copy of the non-compliance with firearms order to law enforcement. If the goal of the firearms statute is to have immediate relinquishment of firearms, firearms parts, and ammunition to protect survivors and prevent serious injury or death in domestic violence cases, mailing an order of non-compliance, which could unnecessarily delay law-enforcement obtaining knowledge of this information defeats this goal. Suggest that notification must be by telephone, fax, or email so that it is the notification to law enforcement of non-compliance immediate.</p>	<p>The committee agrees and has changed the option for mail to personal delivery.</p>
			<p>DV-840/FL-840</p> <p>Page 1, item 4(e). Some language in this section is not reader-accessible. The second sentence is also potentially confusing because it is unclear what law enforcement agency the restrained person must surrender the firearms, firearms parts, or ammunition to. Potential language could be: “If law enforcement served you with a restraining order, you must immediately surrender (or give) any of the prohibited items listed in 5b to the officer, if the officer asks for them. Within 48 hours, you must also file a receipt that proves you have turned in or sold all of the prohibited items with the law enforcement agency that served you with the restraining order.”</p>	<p>This item has been revised. At 5(d), it now states that the restrained person must surrender items, if asked by law enforcement. The committee has also accepted commenter’s suggestion to specify that the law enforcement agency that must be provided a receipt is the agency that served the respondent with a copy of the restraining order.</p>

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			<p>Page 2, item 6(a). Some forms (such as DV-800/JV-720) the word “obey” is used and other section “complied with” is used. Obey might be more reader accessible. It may be beneficial to state: “The court finds that you have not fully complied with (obeyed) the orders”</p> <p>It might also be beneficial to have the court list out what prohibited items the court has not received proof of compliance.</p>	<p>The committee has made the change to “complied with (obeyed).”</p> <p>The committee did not accept the suggestion to list out what prohibited items the court has not received proof of compliance for, as this information will be reflected in item 5 (i.e. any item that is listed for which proof of compliance has not be received by the court).</p>
			<p>EPO-001</p> <p>Page 2, under section titled “Warnings and Information,” it states that person is prohibited from owning, possessing, purchasing, receiving, attempting to purchase or receive any item listed in 3d. It should reference 3e not 3d.</p>	<p>The committee has made this correction.</p>
			<p>General Question Asked by ITC</p> <p>Seeking comment on whether it would be helpful or relevant for courts to know whether a firearm or other prohibited item was stored or seized by law enforcement. We think that this information would be relevant and beneficial for the courts to know. It provides oversight by the court, adding a layer of accountability for the restrained party and proof that prohibited items were relinquished. There is some evidence to suggest that judicial oversight in criminal cases through “compliance hearings” in domestic violence courts can help deter abuse. Courts having this information might add to courts doing further inquiries into firearms and more oversight which may result in more safety for survivors.</p>	<p>The goal of indicating the actions “stored” or “seized” is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee recommends using, “stored,” or “to be destroyed.”</p>

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			<p>Implementing SB 24 The bill language was added to DV-105 (item 9), DV-140 (item 11) and is included in the new DV-125 (item 9). In general, the language mirrors the law. The term “access” to records can be vague outside the context of the full bill. The idea of the bill is that a third party will know not to give a restrained parent access to records once they have been notified of this order. However, access is much more than that. It could mean opening a file folder on a computer with that information. It could mean seeing something in a child’s backpack. For unrepresented litigants, it is important to be clear that this order is referencing access via third party. There is no language in the proposed changes that makes it clear that the places where these records are kept need to be given a copy of the order including the form DV-110, any proof of extensions and a long-term order if issued. While the language says the restraining party shall not have access, there is does not seem to be a proactive requirement for the restrained party to remove themselves from records they already have access to such as a school or activities list-serv.</p> <p>A separate consideration may be whether there would be a context where this order was made separate from the context of overall orders for the minor children. Children can be protected parties on a restraining order which are in effect orders about the minor children without filing a form DV-105 or getting DV-140 orders. Accessing records when prohibited can be a form of abuse</p>	<p>The committee has added a notice to third-party entities at item 5 on form DV-140 that information or records for the children listed must not be provided to the restrained person. It also states at item 5 that the restrained person “must not access or have access to records or information” for the children. The committee believes that this makes it clear to the restrained person that they must not access the information or records protected by the order.</p> <p>The committee has added a reference to this order at item 15 on form DV-100. The committee does not recommend including a reference to this specific order on the DV-110 and DV-130 but has moved the order to page 1 of form DV-140. Because this order can only be made for children that the parties have in common and would likely accompany a request for child custody, the</p>

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			<p>depending on the circumstances, and could fall under a violation of the order to seek out the location of the protected parties. It also falls under the issue of information that could allow the restrained party to locate and jeopardize the safety of the protected parties. Given all that, it may make sense to either reference the availability of this request in the form DV-100 itself, and include a reference to an attached order in the form DV-110, as well as the form DV-130, which would make it easier to find the order from its current location on page 4 of the form DV-140. This bill reflects the fact that all it takes is one informational slip-up to put people’s lives in jeopardy, so in that vein, the request and the order should be highlighted as conspicuously as possible, i.e., earlier in the document, or at least referenced as being available in the form DV-100, and again referenced in the forms DV-110 and DV-130.</p>	<p>committee recommends including the request on form DV-105, and not DV-100.</p>
			<p>While a slightly different matter, this issue also relates to the options for petitioners to request confidentiality for their minor children and the information and option for that request should also be elevated even if it is not necessarily easy to get. (See also later comments.)</p>	<p>Information regarding requests to keep minor’s information confidential has been added to the instruction at the top of form DV-100.</p>
			<p>Implementing SB 538</p>	
			<p>Language about remote hearings has been added to the DV-109 (item 3), DV-116 (item 4), DV-120-INFO (item 3), DV 500-INFO, and DV-520-INFO. Just to note, on the DV-120, item 3 uses the</p>	<p>On form DV-120, item 3, “go to” has been changed to “attend.”</p>

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			<p>term “go to” your hearing in the first sentence instead of the new word “attend.”</p> <p>In general, the language is good. For unrepresented litigants, though it is important to be clear that arrangements must be made in advance. As written, people are asked to go to a website to find their court’s website which they then have to go to in order to find out more information, but it is not clear that they have to or why. Based on what we see happen all the time, litigants may not be allowed to appear remotely if they do not follow the court’s local procedure, which at a minimum involves advance request and may require a form to be served. Adding language that folks need to check with their court in advance is important.</p> <p>It would also be helpful to clarify that both parties can appear remotely. The DV-120 info is clearer in that it says, “[i]f you want to attend remotely, go to the court’s website.” It would also be clearer to say, “to find out how to request to appear remotely” rather than “for more information.” The DV-520-INFO could include remote appearance as an item under the “Make arrangements” heading. Since witnesses may also appear remotely that should be added to the item on witnesses on the DV-520-INFO.</p> <p>For e-filing, since it is not available everywhere it would be clearer to say check your court’s website to see if it currently available.</p>	<p>The committee has made these changes. The committee notes that form DV-520-INFO form is written for both the protected person and restrained person.</p> <p>The committee believes that the language on form DV-505-INFO is accurate as it directs people to check with their court about e-filing. And by July 1, 2023, e-filing must be made available for these matters.</p>

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			<p>In general, where there is a reference to calling the courthouse there should also be a reference to checking the court’s website as calling the courthouse is simply not effective depending on the courthouse and their system and their hours.</p>	<p>The committee did not make this change as more information would be needed. Litigants are directed to call when a matter is time-sensitive, like if they are running late to their court hearing.</p>
			<p>Implementing SB 374</p>	
			<p>Describe Abuse Under the Describe Abuse section, the description as listed is sufficient and effective. The language about access to health care information should be folded in elsewhere as it goes beyond health information related to pregnancy. Preventing someone from seeking health care or health information (e.g., a survivor with a dangerous or deadly disease or illness, such as HIV/AIDS), or from using condoms, or other barriers for STDs, any of which can in itself be a form of coercive control or otherwise be DVPA definition of abuse—and it important to recognize these behaviors outside of the context of reproduction. I would also recommend switching the columns so that the clear language from the statute appears first. While the Describe Abuse section is not intended to be comprehensive or in order of priority, from the perspective of someone filling this out on their own, it is clearer for them to see those forms of abuse first and determine whether or not they apply.</p>	<p>The committee agrees and has changed “access to related health information” to “access to health information.”</p> <p>The committee did not accept the suggestion to switch the columns. When form DV-100 was last revised, the committee decided to list the examples of physical abuse in the second column so as to not imply that physical abuse was preferred over non-physical abuse. This was in response to a commenter’s suggestion to list non-physical examples first.</p>
			<p>In general, the language added to the forms DV-100, DV-110, DV-130 and even the DV-500 is too much, and the focus put on the description detracts from all the other examples and language on</p>	<p>The committee has simplified the language on DV-100. Instead of listing out the examples of coercive control under the “Orders to Not Abuse” section, the reader is directed to form DV-500-</p>

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			<p>disturbing the peace and coercive control. It is sufficient in the DV-110 to say “and reproductive coercion, including controlling someone’s reproductive choices” or “including controlling someone’s choices around pregnancy and birth control.” The lengthy explanation of the ways in which reproductive coercion can appear make it more difficult to read the other forms of coercive control which in and of themselves could also have many forms.</p>	<p>INFO, which includes the examples of coercive control. The committee also notes that many of the examples of coercive control provided by statute are listed at item 5.</p> <p>The committee believes it is important to retain the examples on the order forms so that the restrained person has notice of what coercive control includes.</p>
			<p>For the DV-100, item 10 seems to separate coercive control behaviors from destroying mental and emotional wellbeing, whereas elsewhere it is clearer that disturbing the peace is the destroying the mental and emotional wellbeing, and coercive control is a type of disturbing the peace. By saying destroying mental and emotional wellbeing is included in disturbing the peace, and is an example like coercive control, seems to confuse and conflate them. Coercive control is only one example, not the only example, of disturbing the peace, and disturbing the peace is only one type of abuse.</p>	<p>The committee has simplified this item. Instead of listing out examples of disturbing the peace, the form refers to the information form that provides all the statutory examples of disturbing the peace and the definition of disturbing the peace. The committee also notes that many of the examples of coercive control provided by statute are listed at item 5.</p>
			<p>For the form DV-500-INFO, it is not clear that the statute requires more than listing it as an example under the forms of coercive control rather than singling it out above the examples and then including it in the examples. It also is listed as two of the examples when there are only six in total, which again is disproportionate to the other forms of coercive control, thus unduly raising reproductive coercion in comparison to other</p>	<p>The section describing abuse has been reorganized to clarify the relationship between disturbing the peace and coercive control.</p>

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			<p>forms of coercive control, and in comparison to disturbing the peace in general and other types of abuse.</p>	
			<p>Implementing AB 277 The inclusion on the form DV-500-INFO is fine. However, given that there is a discussion of address privacy on the DV-100 I think it would be useful to add something there in item 1(c). I understand given the length of time it can take, the forms do not want to mislead survivors into thinking they can get a Safe At Home address right away. At the same time, maybe even adding the words Safe At Home to the description 1(c) would help since it is designed specifically to help the survivors. So, for example, “you can use a post office box, a Safe at Home address, or another person’s address” This will actually help with the purpose of the bill since not everyone reads the DV-500-INFO, or INFO forms in general.</p>	<p>The committee agrees and has made this addition at item 1(c) on DV-100.</p>
			<p>DV-105, DV-108, DV-140, DV-145 In general, these forms and the revisions are a welcome change and will absolutely help unrepresented litigants to better understand what they can request in a DVRO and what kind of orders have been made. The change in title is helpful because it takes out the legal terms custody and visitation and makes it clear that the orders and requests can go beyond just those two issues. The new layouts for requesting custody and visitation and making those orders is clearer and more user-friendly than before.</p>	<p>The committee agrees that the new layouts for custody and visitation are more user-friendly and have incorporated those new layouts on form DV-105 and DV-140. However, the committee no longer recommends combining forms DV-105 and DV-108 Based on user-testing and comments received, the committee recommends keeping the child abduction orders on a separate form. As a result, the committee recommends reverting back to the existing title of form DV-105, “Request for Child</p>

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			<p>Child Abuse</p> <p>For the specific issue of Child Abduction which was to be addressed as part of the request through the DV-108 and through orders as part of the DV-108 the change helps to clarify that the issue of child abduction goes beyond no-travel orders and requests. It also will allow for greater consideration of those issues at the same time the other requests are being made. It will be important that those orders are crossed out or there is another way to indicate which orders were not granted or if there was no finding made.</p> <p>A particular concern, though, is the way in which the request at item 11 and the orders seem to imply that one only needs to have one of the items checked off to have a basis for a child abduction request and finding. Simply being a non-US citizen or having a criminal record regardless of the crime does not allow a court to make an abduction order. It is not uncommon for courts to make orders about abduction simply on these bases even though the law is clear that the threshold is not that low. For survivors who have restraining orders file against them in retaliation, they may have already been told that their</p>	<p>Custody and Visitation Orders.” To help litigants understand what types of orders they can request on form DV-105, at item 15 of form DV-100, the committee has added examples of orders that may be requested including no visitation, supervised visitation, and orders to stop access to children’s information and records.</p> <p>User-testing was conducted on the proposed form DV-105. Results showed that litigants were confused by the abduction orders being included on the proposed form, as a “no travel with children order” seemed sufficient. Based on these results, the committee does not recommend combining form DV-105 with DV-108.</p> <p>It is unclear whether the issue raised by commenter can be addressed by changing the form but the committee has revised the instruction in DV-108 to read as follows, “In this section, explain to the judge why you believe there is a risk that the person in 2 will take your children without your permission and hide them from you. The judge will use the information below to decide whether to grant any orders you request on page 2.”</p>

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			<p>immigration status will be used to take custody. As presented in the forms, it appears that any one of the items checked off will be enough to issue an order when that is not the case. In general, it is a positive change that the Respondent will have to independently ask for abduction orders rather than being able to do so easily through their response, for survivors who have restraining orders. Having seen abduction orders be filed against survivors simply because they were not U.S. citizens it will hopefully make a difference. However, neither petitioners who are actually abusive nor survivors should believe or get the idea that some of the factors absent other factors will be enough for an abduction order and frankly neither should the court.</p>	
			<p>For the custody box on the DV-105, the explanation and definitions are helpful and make it clearer. But the sentence that if a judge makes a custody order the person with custody cannot take the child out of California without permission from the court is confusing. First the parties can stipulate without court order that the child may leave California, even though that is not likely, it is still possible. Second by specifically mentioning the person with custody, it makes it seem as if the person without custody would be able to take the child out of California, which is of course not the case. Both parties in fact may be under ATROs to not remove the child if they are already part of a larger case. While I understand the issue of making sure survivors know they may not be able to legally flee the state with the kids, as phrased it</p>	<p>The committee agrees and has removed the advisement.</p>

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			<p>seems somewhat inaccurate, one-sided, and misleading.</p>	
			<p>The confusion also carries over to item 10, where one can request that they or the other party not be able to travel without permission because it includes California. First why would a petitioner request an order that they not be allowed to travel with the children. Second, if as noted in the Custody box, the person with custody already cannot take the child out of California what is the purpose of this order unless the other party can in spite of not having custody or having joint custody which is generally not true.</p>	<p>The committee agrees and has modified this item to remove the request regarding restricting travel for petitioners.</p>
			<p>It may also be unclear why someone has to complete the rest of the form on child kidnapping when they have already requested not taking the children out of California in Item 10. Would it make sense to ask for orders under Item 10 if you did not believe there was a risk? It may make more sense to add a parenthetical that makes it clear that this is about travel within and without the state. The box on Prevent Child Abduction could have more emphasis on stopping and not completing the rest of the form there if the orders will not be requested.</p>	<p>The committee agrees, as indicated above, and recommends keeping the child abduction orders on a separate form.</p>
			<p>I think the issue of costs for supervised visitation should be clarified to make it clear that they may not always be costs or that there may be reduced costs. Judges routinely use cost as a reason not to order supervised visitation, and a survivor may not request supervised visitation because they are concerned that the other side can't pay, will not</p>	<p>This requested change is outside the scope of this proposal but will be considered in the future as time and resources allow.</p>

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			<p>pay, or will be more angry as a result. I don't know why we have to put it on the survivor to request who should pay when the court should be ordering the person who needs to be supervised to pay, if required. If the court wants to order the parties to split it, the court can still do that, but why does the survivor have to request not to have to pay those costs? While it is possible that, if a survivor can afford it and the other party cannot, a survivor might be willing to absorb the costs just so that the visits can be supervised, that is a discussion that does not need to be clarified in the DV-100 or 105.</p> <p>Separately, Family Code 3011 now requires that a court that has received allegations of DV give its reasons for ordering unsupervised visitation. In theory this should mean no visitation until the hearing absent reasons in writing or on a record. These mandatory steps could be reflected in the DV-140 to remind the judge or put them on notice or in the DV-105 to give information to the survivor. For example, the DV-105 could note at item 7 that if 7b is requested, the court must give its reasons on the record for denying the request. This might make it a little easier for an unrepresented survivor to ask for a court's reasons if they do not give it or make it more likely the court will actually follow through with the requirements.</p> <p>The FL forms are being amended to implement SB 654. Why not the DV forms? By definition, all DV cases will trigger the requirements in subdivision (a)(5)(A) of Family Code section 3011.</p>	<p>The committee agrees that this information should be on the order form (DV-140). The new item to implement SB 654 is at 11a on form DV-140. The committee also recommends adding at item 7c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).</p>

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			<p>Finally, supervised exchange should be an option to request. Professional supervisors may offer this, and non-professional supervisors could also be used. This is an in-between option that could be easier for a survivor to navigate rather than all of nothing. Given that the exchange itself is often the time when abuse happens (particularly since courts allow “brief and peaceful contact for visitation” and almost no one can agree on what brief and peaceful means), supervised exchange would give survivors additional options even if they do not feel strongly about supervised visitation or the court is not interested. It could be framed as checking more than one option so if the court denies the request for supervised visitation supervised exchange is still on the table.</p>	<p>The committee agrees that form DV-105 should include the option of having exchanges supervised and has added it at item 13a. The committee does not recommend allowing the requester to ask for supervised exchanges, as an alternative in the event that a request for supervised visits are denied by the court. This would make the form more complicated and harder to understand, especially for self-represented litigants.</p>
			<p>DV-105</p> <p>For item 3, the DV-105 form should make it clear at item 3 that a parent can ask for an order keeping the information of the minor confidential, even though they would be directed to another form. This is not a request that is well-known or widely used, and whether or not it is likely to succeed, survivors need to know they have that option at this stage, if not earlier. While information is included in the DV-505-INFO, few people read those informational forms, few clerks offer informational forms, and some courts simply do not have those informational forms available. Given the way it is specifically noted as Item 5 on the DV-109, it should be something a survivor is informed about as early as Item 8 on the DV-100</p>	<p>This has been added to the instruction at the top of form DV-100.</p>

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			<p>Request form, rather than waiting, since the request is not dependent on filing a DV-105. But at a minimum it should be noted by Item 3 on the DV-105.</p>	
			<p>For item 5, I reiterate my suggestion that child welfare or dependency be an option as that is a more common term than “juvenile court” to describe non-criminal cases. I also reiterate that including child support and parentage as options since they are the actual names of overarching actions would be helpful. The purpose of the box is to let someone else know what cases may already exist. Depending on the case, the docket and information may be confidential. The risk of confusion or misunderstanding seems low relative to the value of the information that it will give the court.</p>	<p>The committee has changed the case type to “Juvenile (child welfare and juvenile justice).” “Child support” has been added as an example of a court case under “other.” Parentage was not added as laypeople typically refer to those cases as “custody cases” which is already included at item 5.</p>
			<p>For item 6, the description should be changed to “Joint (shared together or held together)” rather than “Shared,” because Joint is the actual term that will be used in the order and going forward. While the word “shared” helps conceptually to a degree, it is still just an explanation, and not an actual right in the way that joint legal or joint physical would be, as those are defined terms. The term “Sole” is used, but that could use a parenthetical explanation as well.</p>	<p>The committee has changed the language to “jointly (shared).”</p>
			<p>I am also not clear why a DV-100 form would give the option for the protected person to request sole custody to the restrained party, especially when they may not know about Family Code 3044. We are trying to make it clear that courts</p>	<p>The committee did not make this change. The court’s obligations under section 3044 are separate from whether a party can make a request for sole or joint custody to the other side. The committee</p>

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			<p>cannot do that, where there are allegations or findings without reasons. We still see courts fail to raise or apply Family Code section 3044, even with clear findings in the record of abuse. If the restrained party asks for sole custody in their response, so be it, but why is it in the DV-100 when the survivor may not yet know their rights.</p>	<p>believes it is important to provide all options to both parties.</p>
			<p>DV-125 This form does a great job of keeping the issues clear and distinct where needed, and as part of the improvement that come with DV-105 and DV-140. Since those two forms are mandatory, and the DV-120 is mandatory, the DV-125 should be a mandatory form where a DV-105 is filed. The form gives information to restrained parties that will be useful both in protecting and clarifying their rights while having them consider the full range of orders that can be requested in a DV-105. Since three forms are being eliminated, I am assuming it is not a cost issue. It is unclear to me why filing a DV-120 would be enough where a DV-105 is filed. Item 13 on the DV-120 allows for the option of “I do not agree to the order requested because” The DV-125 is suggested as an option only if they have a different custody order in mind. Was that really the intent? Since there are orders beyond just custody and visitation in the DV-105, shouldn’t the DV-120 lead them to filing the DV-125 regardless, particularly if there are abduction orders? The DV-125 at Item 6(b) also says “I do not agree the requested order because” The form also makes it easier for an unrepresented person to explain what alternate</p>	<p>The committee agrees that form DV-125 should be a required response form, if there is a request on form DV-105.</p>

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			<p>order they would agree to compared to the lines on the DV-120.</p>	
			<p>DV-105(A) I am not sure if it has been an issue that there is not enough space on the form to list all the residences, or that it would be impractical to include it in the DV-120 or DV-125, but to the extent it is then the DV-105(A) is helpful. I think it is confusing to say name of child or children without further explanation, though. Someone will only need the second box on the form if one of their children has a different residence history, so putting a line and a parenthetical reflecting that would be helpful.</p>	<p>The committee has added instructions to form DV-105(A) to address commenter’s concern.</p>
			<p>DV-120-INFO Overall, the changes to all INFO forms are helpful and continue the Committee’s excellent efforts to make the process of requesting and responding to a DVRO and going to hearing. The format of answering questions commonly asked by unrepresented litigants continues to be useful, and the answers continue to improve.</p>	<p>Thank you for your response.</p>
			<p>For DV-120-INFO, as a general point, the list under “What Does the Order Do?” should be more expansive and include require payment of debt and costs, give up control of property, limit travel with the children, etc.</p>	<p>The committee has added additional examples, including paying debt and control of property. Not all examples suggested by commenter were included as the list is meant to be illustrative but not exhaustive.</p>
			<p>Under the “What if I have children” heading, there should be a reference to the earlier statement about children being protected parties since it is not separated out. Under this section, someone should</p>	<p>The committee has added this information.</p>

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			<p>know that if they have children with the person, the children may be listed as protected parties. Even if they are not, there may be other court orders requested and ordered.</p>	
			<p>What is the difference in information between “I was served with form DV-100” section and “What are my next steps” section? Maybe change the title on the second page or alter the first on to make it more distinguishable</p>	<p>Thank you for the comment. The committee has reorganized the form to make the content and headings more intuitive.</p>
			<p>For “What if I was Arrested”, the information should be both ways. Anything a person says in their criminal case can be used against them in the restraining order case, and any compelled testimony from the DVRO case may be used in the criminal case (which means the abuser can still submit other evidence in the DVRO matter). Otherwise, it reads a bit too much like people have a broad, plenary 5th Amendment right in a DVRO case, which is not really the case.</p>	<p>The committee has revised the language to indicate that anything that is said by the person could be used in this case or in any criminal case.</p>
			<p>Under Item 2 of “What are my next steps?”, the right to a continuance has to be mentioned. If a person files a response prior to the hearing, they may lose their right to a continuance unless they can argue that they need a lawyer.</p>	<p>The form now directs people to talk to a lawyer or self-help center staff if they need more time to prepare for their case.</p>
			<p>DV-500-INFO</p>	
			<p>For “How can the restraining order help me?”, the stay-away is not separate in the way it is in the DV-120-INFO, and since they are listed as separate requests/orders, they should be listed separately here, rather than combined. Since the</p>	<p>The committee has made this change.</p>

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			<p>stay-away can include more than persons but also places it should be separate and clearer.</p>	
			<p>I would also like to see the addition of pay credit card or other debts, transfer cell phone account. Obey orders about property is vague because people tend to think of real estate and the statement does not make it clear that the order can keep people from destroying or selling property or give up control of the property to the survivor</p>	<p>The committee has added some of the examples suggested by commenter. The same examples provided to the petitioner on form DV-500-INFO are the same examples listed on form DV-120-INFO.</p>
			<p>For “How soon can I get the order”, it more accurate to say the court is supposed to give it to you no later than the next business day since courts routinely do not or make it difficult for you to actually get the order the next day even if it is granted.</p>	<p>The committee has changed the language to “The judge must decide same day or the next business day (next day court is open).” This information is consistent with what the Family Code requires.</p>
			<p>For “Am I eligible” see comments in other sections about clarifying qualified relationships and the reproductive coercion language.</p>	<p>See responses to those comments.</p>
			<p>For “Can the order stop the other parent . . .” see comments in other sections about travel orders. The language should also match to say if the just grants orders they will be listed in DV-140, as the rest of the INFO sheet on this point is not written as if someone already has an order.</p>	<p>The committee has removed this section in the form. It may cause confusion, as described by other commenters above.</p>
			<p>While the confidential address program is important, the needing an interpreter and requesting accommodations should be on page 2, and other help and the program, spill over on page 3. The information about the court process being online should be included in the self-help center</p>	<p>The committee has reorganized the content so that the request for interpreters and accommodations comes before the information at the Safe at Home program. However, this information is still on page 3. The committee finds it preferable to keep the information about online content in a separate section, consistent with the other INFO forms.</p>

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			<p>section, because there simply may not be one available to them.</p>	
			<p>DV-505-INFO</p>	
			<p>For Part 1, Which forms do I complete, it lists the DV-140 as a form the survivor has to complete, when the form itself does not say that. The form should be completed by the court, or if the expectation is that they have to fill out part of it like the DV-110, then that should be clear.</p>	<p>Courts have different practices on this issue. The committee will make note of this and consider adding an instruction on form DV-140 in the future when comment on this can be sought.</p>
			<p>For Part 2, Tips for completing the form, the issue of qualifying relationship is already covered in several other spots including the DV-100 and DV-500-INFO. This space could be used for another tip.</p>	<p>The committee agrees and has removed the list of qualifying relationships and, instead, refers to the list of qualifying relationships provided on form DV-100.</p>
			<p>In the Describe the abuse section, it may help to reference DV-500-INFO, which explains what is abuse. Also, “describe” could be explained and have examples such as what a person said, how they looked, what they actually did and how they did it, dates and times, etc.</p>	<p>A reference to form DV-500-INFO has been added. The committee did not add examples of how to describe the abuse as form DV-100 itself contains those examples at items 5 through 7.</p>
			<p>The “How old must I be” section seems more appropriate for DV-500-INFO. The DV 505-INFO form is theoretically for those who already know they can ask for a DVRO at this point.</p>	<p>The committee believes that the information should be included on both information forms as not all restraining order packets will include all INFO forms.</p>
			<p>The “What if the other side has a gun or firearm” section should include the information about ammunition and firearm parts.</p>	<p>This information has been added.</p>

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			<p>For “What is a Batterer Intervention Program”, there is enough space to add a line that explains a BIP it is not the same thing as anger management. This is important because we still see courts often ordering anger management instead of BIPs. While courts can arguably order anger management and any other reasonable program because of their broad authority under Family Code section 6322, anger management programs should not be viewed as substitutes for BIPs.¹ Indeed, they could work well together for some abusers. The statute setting the standards for BIPs does not use the term “anger” (Pen. Code, § 1203.097, subd. (c)), and BIPs, not anger management programs, are a proven useful measurement for an abuser’s progress (e.g., Fam. Code, § 3044, subd. (b)(2)(A)). Some BIPs may include anger management as a component of their curricula, but the desire to control an intimate partner, not anger, is the root of domestic abuse. In fact, the Legislature in 1999 added the reference to the Penal Code statute, into the DVPA (Fam. Code, § 6343), precisely because courts were sending abusers to inadequate counseling and treatment programs, such as anger management, (Stats. 1999, ch. 662, § 3; Sen. Com. on Judiciary, com. on Sen. Bill No. 218 (1999-2000 Reg. Sess.) [“[M]any counseling programs to which courts [were] send[ing] restrained parties do not rise to the level of the treatment program[s] for convicted batterers approved by the probation department, and [so] the result of sending people to those counseling programs is much the same as if they never went to counseling at all. On the other hand,</p>	<p>The committee has added language to distinguish batterer intervention programs from anger management programs.</p>

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			<p>[the bill’s proponents] say, the diversion programs designed for batterers and approved by the probation department tend to be more effective in changing the behavior of convicted batterers.”.] 1 “There is a common belief that domestic violence is a result of poor impulse control or anger management problems. Abusers routinely claim that they ‘just lost it,’ suggesting that the violence was an impulsive and rare event beyond control. Domestic violence is not typically a singular incident nor does it simply involve physical attacks. It is a deliberate set of tactics where physical violence is used to solidify the abuser’s power in the relationship. In reality, only an estimated 5 to 10 percent of perpetrators have difficulty with controlling their aggression. Most abusers do not assault others outside the family, such as police officers, coworkers, or neighbors, but direct their abuse toward the victim or children. This distinction challenges claims that they cannot manage their anger.” (Bragg, Child Protection in Families Experiencing Domestic Violence, (2003) p. 18; Gondolf & Russell, The Case Against Anger Control for Batterers (1986) 9 Response 1, 3 “[W]ife abuse is not necessarily anger-driven,” but more the consequence of a socially imposed “need to control women”; as a result men who “frequently cited anger control techniques as their means for reducing abuse” were less successful in reducing abuse or reforming; “[B]atterers readily reduce anger control to a set of gimmicks that enables them to get their way less violently while continuing their abuse”; “[a]nger control fails to account for the</p>	

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			<p>premeditated controlling behaviors associated with abuse.”]; Yorke, Avoiding Collusion with Batterers through Recognition of Covert Behavior for Better Outcomes In Family Court (2016) 28 J. of Am. Academy of Matrimonial Lawyers 563, 578 [“[T]he hallmark of many batterers is [not anger all the time]. They are able to maintain their composure under seemingly difficult circumstances and only express their anger at loved ones behind closed doors.”].)</p>	
			<p>For Parts 3 and 4, suggesting that someone will be able to get information by calling the courthouse, when that, in our experience, isn’t happening always, can be frustrating and disheartening for folks. From what we have gathered, court personnel do not want people to call them with these questions, and between complex phone trees, severe hour restrictions, and answering machines, they can make it very difficult to get any question answered—and certainly not as easily and readily as all these forms make it seem. Also it is not always true that it will be ready the same day or next business day.</p>	<p>For part 3, the committee has added an instruction to check the court’s website. The information form reflects what is statutorily required. If there are delays, this should be addressed with the local court.</p>
			<p>DV-520-INFO</p>	
			<p>This is an incredibly difficult form to create and manage, and it is clear that the Committee continues to prioritize putting as much information as it can in the hands of unrepresented litigants. In particular the difficulty of trying to write it for both sides. There is always more that can be done, but this certainly is a tremendous ongoing effort that is greatly appreciated. With that in mind, there</p>	<p>Thank you for your response.</p>

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			<p>is simply not enough time to lay out all the suggestions for improvement. Here are a few but not all suggestions below.</p>	
			<p>The first item is bring evidence or witnesses. We can be a voice in helping survivors know that their own testimony is itself sufficient evidence, and has already been submitted through their declarations on the DV-100 and other forms. (Fam. Code, § 6300, subd. (a).) If they have additional evidence in the form of any type of written or oral communication or witnesses, then they can add that, but it is not required. (Ibid.; In re Marriage of F.M. & M.M. (2021) 65 Cal.App.5th 106.)</p>	<p>The committee has added language to indicate that bringing witnesses and evidence, aside from one’s own statements, is optional.</p>
			<p>At the same time, it should be clear the petitioner has the burden of proof. And specifically mentioned should be that their burden is to prove the matter by a preponderance of the evidence (Evid. Code, § 115; In re Marriage of Davila & Mejia (2018) 29 Cal.App.5th 220), which means more likely than not at least one past act of abuse has occurred (Fam. Code, § 6300, subd. (a)) and a DVRO is warranted under the totality of the circumstances (id., § 6301, subd. (c)).</p>	<p>The committee agrees that this information should be added, and has done so in plain language.</p>
			<p>The section on Evidence also talks about making evidence available, and then separately if they have already filed and served. They will have to have copies, not just make it available, and they have to be given to the other side before the hearing, or at least before a judge can look at them. Also do the self-help centers know that they are supposed to help people with this information,</p>	<p>The committee has added that the party must have three copies if they are attending in person and to contact the local self-help center regarding evidence for a remote hearing, as the practice will vary across counties, and departments. If self-help centers are not equipped to provide the information, they will likely be able to refer litigants to other resources that may be available.</p>

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			<p>what does someone do if there really is no accessible SHC, where do they go?</p>	
			<p>Witnesses can appear remotely even if the survivor appears in person. A court may require notice to the other side regardless of the number of witnesses, and since the respondent has the option of a continuance in some circumstances, survivors and witnesses need to be prepared to possibly have to come back.</p>	<p>The committee has changed the language to “you or a witness” may attend remotely.</p>
			<p>The “Plan what you want to say” section needs more accessible terms than “weigh in” and arguing in their case “allegations”. I would prefer to see something that acknowledges that not everyone can write it down, and that this does not help everyone. Especially since this will be in different languages.</p>	<p>The language has been changed to, “If you do not agree, tell the judge.”</p> <p>All forms in this form set do assume that the reader has a certain literacy level and ability to write. The committee will make note of the fact that the forms are not designed for someone who may not be able to write or read in English, in the event that alternatives are created, such as audio versions of the content.</p>
			<p>As noted, the issue of whether and how to arrange remote appearance should be part of the arrangements before the court hearing. Also “What to expect at your hearing” is written as if people have choices about how they show up. If they show up too early, they may not even be allowed in the court building, or they may not be allowed to sit in the hallway, or may have to do so with the abusive party in the same hall. If they are having a video appearance, they may get stuck in a waiting room and in some cases never get out.</p>	<p>The section on remote appearances has been moved to the “Make arrangements...” section on page 1.</p> <p>The committee did not change the advisement on arriving early as the goal is to ensure that they do not miss their hearing.</p>

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			<p>The issue of the continuance should clearly state that the other side has a right to an automatic continuance if they haven't filed a response. (Fam. Code, § 245, subd. (a) ["The respondent shall be entitled, as a matter of course, to one continuance for a reasonable period, to respond to the petition."], italics added.)</p>	<p>This information is listed on page 2.</p>
			<p>Also, it is important for those who are appearing remotely to know how they will get a copy of their order. They may or may not be expected to complete it and file it themselves.</p>	<p>Step-by-step instructions are now provided on page 3 and apply to in person and remote appearances.</p>
			<p>DV-530-INFO When discussing options for survivors, it should be clear there may be risks for doing certain things. For instance, calling the police can be dangerous or risky (e.g., arrest of abuser or survivor or both; immigration consequences; eviction or other tenant issues), or it may not be safe, and there is no information about how a survivor can let the court know about any of this. Plus, it gives suggestions about people to whom to give copies of the restraining order, without describing that there may be safety and other risks involved in doing so.</p>	<p>The committee has added information about actions that a judge could take if the restraining order is violated. This can be viewed as an alternative to calling the police for those who would not call the police for help.</p> <p>In the section on providing copies to others, the committee has added language to explain that this "should only be done if it is safe to do so."</p>
			<p>Additional Comments Qualified Relationships for a DVRO</p> <p>It is clearer and easier to read if the "step" relatives are included before the "in-law" relatives. So: "Brother, sister, step-sibling or sibling in law." While it is great that there is more clarity now for survivors that in-law abuse can be qualifying for a</p>	<p>"Step" relatives is now listed before "in law" relatives, as suggested by commenter.</p> <p>The committee did not adopt the suggestion to make clear whether "former" in-law relatives would qualify as there are different interpretations on the issue.</p>

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			<p>DVRO, it is not clear whether or not it applies to “former” in-law relatives. It should be made clear whether people who are no longer someone’s relatives by marriage can be included, which they arguably should be. (Fam. Code, § 6211, subd. (f).)</p>	<p>This change, to spell out Emergency Protective Order, has been made.</p> <p>The committee has changed the language to make it clear that a no-contact order in any restraining or protective order must be enforced. This section now references the item number for the no-contact order.</p> <p>As this section deals with conflicting restraining orders, the committee has changed this item to specifically address criminal protective orders.</p>
			<p>Priority of Enforcement The additions to the CPO section are helpful but the more consistency and clarity with the terms would be helpful. While I appreciate that this may be more for law enforcement or others, the parties are often in the dark about what orders they have, and how they relate to one another because there are different court systems and actors involved. Therefore, for the parties it would be helpful to have more clarity with the numbered items. For Number 1, I think EPO should be spelled out. It is not an acronym that is immediately understood, and the information given by the name is itself helpful.</p>	
			<p>Number 2, No-Contact order is not clear. If it is a No-Contact Order in a TRO, then what does that mean if there is also a CPO? The TRO should control if the CPO doesn’t have a no-contact order, right? It should be clearer either what a No-Contact order might look like, or otherwise be called, or where exactly it might be found, for example, item 10 on the TRO; and clarify whether it can be civil or criminal, or both.</p>	
			<p>Number 3, it would be clearer to separate out Criminal Protective Order from Criminal Order, so that it is clearer for a survivor if they actually have</p>	

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			<p>that type of order. Depending on how Number 2 is clarified, it could also be split into Criminal Protective Order and Other Criminal Orders.</p> <p>Number 4 is unclear because unlike the other numbers, it does not reference how it specifically relates to the other numbers. What might be an example of having multiple civil orders and how would that relate to what was said in the earlier numbers? If someone has a DVRO no-contact order in an earlier order, does that take priority over a later order that do not have no-contact orders? It seems yes, but as written, it is not clear.</p>	<p>The committee believes that the new proposed language makes it clear that a no-contact order must be enforced, and if there is more than one civil restraining order, the most recent order is enforced. The committee is interested in simplifying this section and hopes to gather feedback from law enforcement in the future.</p>
4.	<p>Giffords Law Center to Prevent Gun Violence By Julia Weber, Implementation Director San Francisco</p>	NI	<p>On behalf of Giffords Law Center to Prevent Gun Violence, we appreciate the opportunity to comment on these important proposals. Thank you to Judicial Council staff and committee members for your work to make these proposals as responsive as possible. Re: proposed repeal of Rule 5.495, we agree that SB 320 codified this rule of court, however, it should be noted that the Advisory Committee Comment was not part of SB 320. If the rule is repealed, we recommended ensuring that the information contained in the Advisory Committee Comment be documented and included in training for judicial officers and court staff going forward as it reflects Family and Juvenile Law Advisory Committee and Judicial Council thinking and policy in this area. For example, to support relinquishment and reduce risk, courts need to recognize that use immunity under Family Code section 6389 is possible as current rule 5.495 indicates in the Comment.</p>	<p>Thank you for reviewing and submitting comments for this proposal. The committee agrees that continued training on the requirements of Family Code section 6389 is key to reducing risk and supporting the court’s efforts to ensure relinquishment. Through its subcommittee, the Violence Against Women Education Project, the committee will support education on this topic.</p>

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			<p>DV-100</p> <p>On page 21, #9, "Does person in 2 have firearms (guns), firearm parts, or ammunition?" as a phrase (firearms (guns), firearm parts, ammunition) that should be used consistently as opposed to the more confusing "firearms, guns, etc." It appears to be redundant when both guns and firearms are used below rather than putting "guns" in parenthesis.</p> <p>Page 26, #27 should reference PC 1203.097 to ensure the program is approved and not another type of program that may not help reduce risk.</p> <p>Page 27, "Automatic Orders That a Judge Can Make Right Away," makes it sound as though these particular orders are discretionary which conflicts with "automatic." Propose removing that heading or stating, "If your request for this order is granted, these orders will automatically be included."</p> <p>DV-105</p> <p>DV-105, there should be reference to FC 6323(e) which requires that when a court is determining whether visitation should be suspended, denied, or limited to situations in which a third person is present, the court must consider whether there is violation of the firearm prohibition. For example, a question on this form asking whether the petitioner believes the person has violated the firearm prohibition may be helpful in obtaining that critical information.</p>	<p>The committee agrees to reference firearms as "firearms (guns)."</p> <p>The committee recommends including the citation to Penal Code section 1203.097 to the order form, instead of the request, as it is unlikely that the citation would be useful to petitioner at the time of the request.</p> <p>The committee has changed the title to "Automatic Orders if Judge Grants Restraining Order."</p> <p>The committee did not adopt this suggestion. At the time of the request, there would be no firearms prohibition for the restrained person to violate. Therefore, including a question as to whether the petitioner believes that the person has violated the firearms prohibition would be unanswerable. However, this information could be included on an information form on custody issues, which the committee will consider proposing in the future.</p>

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	Commenter	Position	Comment	Committee Response
			<p>In #7 and #8, virtual visitation should be included as an option given the availability of relevant technology and the possibility that virtual visitation may provide a way to reduce risk as opposed to in person visitation.</p>	<p>The committee believes that virtual visitation is appropriate in some, and not all, situations, and depends on a number of factors, including whether a professional provider has policies in place to safely conduct virtual visitation. The committee believes that orders for virtual visitation are currently being made on a case-by-case basis, and does not recommend include it as an option on the forms before considering various policy issues.</p>
			<p>DV-109</p>	
			<p>DV-109: may be useful to state more clearly that party has a right to attend court remotely.</p>	<p>The committee did not make this change as the language included on the form is consistent with the statutory language.</p>
			<p>On page 37, consider where the restrained/prohibited person will get the information directly about relinquishing now that they are prohibited until the court hearing and how to find out about local protocols for relinquishment since the court is required to provide that information under FC 6304.</p>	<p>The committee agrees that referencing local protocols for relinquishment would helpful. However, the committee believes that this information should be on order form DV-110, rather than form DV-109, which is the notice of court hearing form.</p>
			<p>Here or DV-110 (and/or on other relevant forms) there should be reference to receiving info from the court about how to comply locally per FC 6304.</p>	<p>Same response as above.</p>
			<p>DV-110</p>	
			<p>On DV-110, page 39, #5, heading should be consistent ("No Firearms (Guns), Firearm Parts, Ammunition" to avoid confusion and increase consistency throughout DVRO forms (and all firearm prohibiting civil orders).</p>	<p>The committee agrees and has made this change.</p>

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			In 5d, add "properly" turned in or sold"; note that receipt is to be provided to the court and law enforcement.	The committee has changed the language to specify that the items must be “properly turned in, sold, or sold.” The requirement to provide a receipt to the court and law enforcement that served the restraining order is provided at 5e.
			In 5e, consider "turn in any firearms, firearm parts, or ammunition you have," to avoid confusion. and note that you still have to turn in the receipt to the court (d and e appear to be separate requirements but could be combined for clarity).	The committee prefers to use the term “prohibited items” to refer to all items listed in item 5(b). The order to provide a receipt to law enforcement and the court have been combined and provided in item 5(e).
			In #6, add date the court received proof of compliance.	The committee has made this change.
			In #7 on page 40, consider including additional consequences for non-compliance which may include being held in civil contempt, monetary sanctions, and limiting or denying visitation.	The committee did not adopt this suggestion and prefers to keep the language as simple as possible. The goal of this section is to communicate clearly to the restrained person that there is a hearing that they must attend.
			Appreciate the addition of #7 providing for review hearing.	Thank you for your comment.
			P. 48, #8, re: No Fee to Serve: please clarify by adding "upon request" so it doesn't suggest this will be happening automatically.	The committee did not make this change as the second sentence makes it clear that petitioner must bring a copy to law enforcement.
			Page 54, #26, use consistent heading "Firearms (Guns), Firearm Parts, or Ammunition." Confusing in a. to list guns and firearms separately (this is a universal comment for all forms where "guns and firearms" are used as if they are two separate items).	This change has been made.

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			<p>"Prohibited items" in b. is vague: consider, "I have turned in all my firearms, firearm parts, and ammunition..."</p>	<p>The committee did not make this change as the order clearly states what a prohibited item includes.</p>
			<p>DV-120-INFO</p>	
			<p>On DV-120-INFO, "ghost guns" may not be a familiar term and this is one of the only places it is mentioned. Consider "Not have any firearms (guns), firearm parts, or ammunition."</p>	<p>The committee believes that it would be helpful to use the term "ghost guns" on the INFO form for people who are familiar with the term, to help identify unserialized or homemade guns.</p>
			<p>Consider adding, "Ask the court for more information on how you can comply locally with an order to turn over or store these items if the court issues the order."</p>	<p>The committee has added language to refer people to the court for local information on how to obey these orders.</p>
			<p>Consider adding what relinquishment is NOT (not a transfer to a family member, for example).</p>	<p>The committee agrees that this information would be helpful but that the information should be on form DV-800/JV-270-INFO, <i>How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, or Ammunition?</i> This information has been added to page 1 on form DV-800/JV-270-INFO.</p>
			<p>Consider noting that if you do not comply with the firearm and ammunition prohibition, visitation may be restricted or denied.</p>	<p>This information has been added to form DV-800/JV-270-INFO, <i>How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, or Ammunition?</i></p>
			<p>Next Steps on pg. 57 could include reference to seeking local info on how to comply.</p>	<p>This information has been added to Part 1 on page 2.</p>
			<p>DV-125 should include option for virtual visitation.</p>	<p>The committee believes that virtual visitation is appropriate in some, and not all, situations, and depends on a number of factors, including whether a professional provider has policies in place to safely conduct virtual visitation. Many policy</p>

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				issues need to be considered before this can be added to the forms.
			DV-130	
			DV-130 should be consistent with comments and wording suggested above for TRO.	See responses above for DV-110.
			#8 on p. 63 should be "Restrained Person has Firearms, Firearm Parts, and/or Ammunition." "Prohibited Items" is too vague and it could be easily missed by law enforcement or another court.	The committee does not agree that “prohibited items” is too vague as the order explains what “prohibited items” covers. The committee believes that using a shorter phrase to capture firearms (guns), firearm parts, and ammunition makes the content easier to read and understand. In order to address the comment that “prohibited items” could be easily missed by law enforcement or another court, the committee has (bolded) the item and increased the white space, to make in more visible and less likely to be missed.
			Date for compliance should be included.	This has been added.
			#9 pg. 63 should be changed to "...Not Complied With Firearm and Ammunition Prohibition." Too vague and no close reference to "prohibited items" which can reduce the perception of the seriousness of the matter and the risk involved for protected parties, law enforcement, and the public.	The committee does not agree that “prohibited items” is too vague as the order explains what “prohibited items” covers. The committee believes that using a shorter phrase to capture firearms (guns), firearm parts, and ammunition makes the content easier to read and understand. In order to address the comment that “prohibited items” could be easily missed by law enforcement or another court, the committee has (bolded) the item and increased the white space, to make in more visible and less likely to be missed.
			#9 here and elsewhere should not require specifying the law enforcement agency because	The committee does not agree with this suggested revision. Identifying the law enforcement agency,

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			<p>some courts are submitting this information electronically to all county law enforcement agencies given jurisdictional issues and risks. Consider, "The court will immediately notify law enforcement and within two days, the appropriate prosecuting agency unless proof of relinquishment is provided prior to the court notifying the prosecuting agency," since notice could happen before a full two days.</p>	<p>when possible, is key to improving enforcement. If a court determines that notification through an electronic system is appropriate in a situation, the court could indicate so on the form (e.g. all law enforcement agencies in [name of county] notified via [means of notification]).</p>
			<p>Under 9(c), there is an implication that the law allows for another two days for the person to comply. However, the court has found them to be in violation and FC 6389(c)(2)(B)(4) says the court has two days to notify the prosecuting agency.</p>	<p>The committee has changed the language to "immediately notify" as the order is intended to communicate to the restrained person that notification will happen quickly. The committee has also included an instruction on form DV-800-INFO that the restrained person may provide a receipt of surrender to the prosecuting agency.</p>
			<p>Because the OAH may be the first time the person becomes prohibited, it may be helpful to provide information in 10 to distinguish between 9 and 10 to avoid confusion and clarify that the person has 48 hours to provide a receipt, such as, "You must attend the court hearing in 6 or submit a receipt to the court and law enforcement within 48 hours of receiving this order to prove you have properly turned in all firearms, firearm parts, or ammunition."</p>	<p>The committee did not accept this change. Courts may still want to conduct a review hearing even if a receipt is filed.</p>
			<p>On pg. 68 #30, please clarify if the service options [are] either/or.</p>	<p>The committee has added an instruction to "check a, b, or c."</p>
			<p>Pg. 69, Instructions for Law Enforcement, please include informing restrained party of firearm prohibition, requesting firearms, parts, and ammo,</p>	<p>The committee has added a new section under the <i>Instructions for Law Enforcement</i> called, "Duties of Officer Serving This Order" to order forms DV-</p>

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			and removing firearms in plain sight or discovered through a consensual/legal search. Note that "disobeyed order "includes refusal to turn in firearms upon request. All comments here are suggested as universal comments for all forms in this ITC so that consistent headings, terminology, and phrases will appear on all DVRO forms.	110 and DV-130. This same information is currently on the gun violence restraining order forms (GV-110 and GV-130) and provides step-by-step instructions for law enforcement.
			On EPO-001, the reference to firearms being "searched for" has caused some confusion: does this mean searched for electronically in the Automated Firearms System (AFS) or physically searched for at the scene? It would be clarifying for both the officer requesting the EPO, and the court, and for anyone enforcing or protected by the order to know which occurred. Suggesting a clarifying checkbox with language indicated what is meant be added.	This change has been made at item 10 on the form.
			Re: the request for comment on the specific question "Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement?," we believe that yes, it would [be] very helpful in reducing risk and ensuring a fair process for more specific information about firearms, parts, and ammunition that have been stored or seized to be provided given that there may be a combination of compliance and non-compliance that must be sorted out by the court and law enforcement.	The goal of indicating the actions "stored" or "seized" is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee recommends using, "stored," or "to be destroyed."
5.	Harriett Buhai Center for Family Law	AM	Does the proposal appropriately address the stated process? Yes	Thank you for reviewing and submitting comments for this proposal.

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	Commenter	Position	Comment	Committee Response
	<p>by Rebecca L. Fischer, Senior Staff Attorney Los Angeles</p>		<p>Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement? N/A</p> <p>Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete? Item 6 may still be confusing for pro per litigants. We suggest the following changes:</p> <ul style="list-style-type: none"> • The sentence in the information section that says “If a judge makes a custody order, the parent with custody cannot take the children out of California without permission from the court” is incorrect and attempts to simplify a very complex issue. We recommend removing it. • We ask Judicial Council to consider whether the custody information section (or the restraining order general information sheet) should mention the effect of a restraining order on custody. <p>Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? Items 7 and 8 may still be confusing for pro per litigants. We suggest the following changes:</p> <ul style="list-style-type: none"> • Remove the “once a week”/ “twice a week” options in item 7(b)(2) to prevent litigants from filling in both a once a week box and the visitation schedule; • Move the visitation chart to the first available option under 7(b)(2); 	<p>No response required.</p> <p>The committee agrees and has removed the advisement.</p> <p>The committee agrees that information about custody, visitation, and other related issues would be helpful. The committee will consider creating an information form for this purpose in the future.</p> <p>The committee has added the instruction “check one” to address the commenter’s concern.</p> <p>The form has been reorganized so that the visitation chart is on the same page as the</p>

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Change “Other” to “visitation schedule” as the second option under 7(b)(2); • Move the chart in item 8 to under 7. Having them as separate options increases the number of boxes a pro per litigant needs to mark. If item 8 is not marked, there may be arguments about whether notice was proper. • On item 8 visitation schedule, remove every week/ every other week and replace with 1st, 2nd, 3rd, 4th, 5th weekend language. A restraining order request/ order that lists “every other week” is next to impossible to enforce especially several months after the order was made. 	<p>visitation item. It would follow that the option to use the chart be the last option so it is right above the chart itself.</p> <p>The committee did not accept this change. While the committee agrees that the order (form DV-140) should indicate whether the order applies to the 1st, 2nd, 3rd, 4th or 5th week, the committee believes that “weekly” and “every other week” is easier to understand for self-represented litigants.</p>
			<p>Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100 instead of the proposed example? N/A</p>	<p>No response required.</p>
			<p>Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? We would recommend including language on the DV-105 in the custody box that specifies “If the court issues this restraining order after hearing, the court must state on the record reasons for granting sole or joint custody or unsupervised visitation to the restrained person.” Similar language could be placed on the DV-125. We would also suggest putting a box on DV-140</p>	<p>The committee believes that including the information on the order form (DV-140) is sufficient to put the court and litigants on notice that the judge is required to state its reasons on the record or in writing.</p> <p>On form DV-140, the committee believes that having a space on the form for the judicial officer to state their reasons for granting unsupervised visit would be helpful. This new item is at 10a on form DV-140. The committee also recommends adding at item 6c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).</p>

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	Commenter	Position	Comment	Committee Response
6.	Orange County Bar Association by Daniel S. Robinson, President	A	Does the proposal appropriately address the stated purpose? The Proposal addresses the stated purpose.	Thank you for reviewing and commenting on this proposal.
			Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)? Yes, type of seized firearm(s) listed in the form DV-800 is important for the court & protected party to know, especially if it does not comport with their recollection of firearms in the Restrained Party’s possession.	The goal of indicating the actions “stored” or “seized” is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee recommends using, “stored,” or “to be destroyed.”
			Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete? Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? Yes, the layout of the form DV-105 is even easier for attorneys!	Thank you for your response. The committee agrees that the new layouts for custody and visitation are more user-friendly and recommends using them on form DV-105.
			Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example? The listed examples of reproductive coercion are sufficient.	The committee agrees that the examples are sufficient. One change was made to the example, in response to a comment received. The committee changed the example to include trying to interfere or control “access to health information,” and not just access to “access to related health information.”
			Should language to implement Senate Bill 654 be included on the domestic violence restraining	The committee believes that having a space on the form for the judicial officer to state their reasons

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	Commenter	Position	Comment	Committee Response
			<p>order forms? The proposal can be found at www.courts.ca.gov/policyadministrationstocomment.htm.</p> <p>Yes, supervised visitation is the statutory option for someone found to be a perpetrator of Domestic Violence and it is appropriate to incorporate the language from the forms in SPR22-09 into the DV form numbers.</p>	<p>for granting unsupervised visit would be helpful. This new item is at 10a on form DV-140. The committee also recommends adding at item 6c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).</p>
7.	Superior Court of Orange, Family Law and Juvenile divisions by Vivian Tran, Operations Analyst	NI	<p>Recommend form DV-110 at item 3 (<i>Other Protected People</i>) be revised to list orders in number 8-11 rather than 6-9. Items 6 and 7 do not pertain to <i>Other Protected People</i>. Item 13 on form DV-110 can possibly pertain to <i>Other Protected People</i>.</p>	<p>The committee has changed the reference to items 8 through 11. If the court issues “other orders” that protect the people in item 3, the court should indicate this as part of the order.</p>
			<p>Recommend adding a line at item 9b of DV-130 and item 3b of DV-820 to list the name of agency.</p>	<p>Lines have been added.</p>
			<p>Form DV-140 (Order for Minor Children), item 6e(3) incorrectly references item 8 instead of 9.</p>	<p>The numbering has been corrected.</p>
			<p>Form DV-800/JV-270, page 2 reflects the incorrect page number on the bottom right.</p>	<p>The page number has been corrected.</p>
			<p>Recommend form DV-820 (Prohibited Items Findings and Orders) to be an optional form instead of mandatory as page 9 of the proposal states “it would be unlikely for the court to have information regarding noncompliance at the temporary order stage.”</p>	<p>Mandatory means that form DV-820 would need to be used if the court is 1) making a determination that the restrained person has a prohibited item; 2) setting a hearing to review compliance; or 3) notifying another agency of noncompliance. If none of the orders are applicable in a case, form DV-820 would not be required.</p>
			<p>Forms DV-130 (Restraining Order After Hearing), DV-820 (Prohibited Items Finding and Orders)</p>	<p>The committee understands that identifying the appropriate agency may be challenging in some</p>

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			<p>DV-830 (Noncompliance with Firearms and Ammunition Order, or Warrant), DV-840 (Notice of Compliance Hearing for Firearms and Ammunition) requires the court to specify the agency that notice is being sent to. Some of the challenges that the court may encounter regarding notifying specific law enforcement agencies include:</p> <ul style="list-style-type: none"> ◦ Instances where the restrained person does not have a fixed residence ◦ Restrained person that lives out of state or county ◦ Jurisdictional - Cities that are “policed” by either a Police Department or Sheriff’s Department ◦ Addresses in unincorporated areas are difficult for court staff to determine agency jurisdiction 	<p>situations. However, Family Code section 6306(e) does require the court to notify appropriate law enforcement officials. The court will need to make this determination with whatever information it has and in the event that the court cannot identify one agency, the court could notify multiple agencies.</p>
			<p>Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.</p>	<p>Thank you for your response.</p>
			<p>Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)? Yes, this information may be useful to the court.</p>	<p>Thank you for your response.</p>
			<p>Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete?</p>	<p>The committee did not make this change. User-testing did not reveal issues with this construction and testers indicated that the language would translate well into some other languages like Hmong, and Tagalog.</p>

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			<ul style="list-style-type: none"> ◦ Item 6 may not be easily understandable to self-represented litigants that are native English speakers. (e.g., mother/father vs. indicating “sole to me, sole to person in #2, shared held jointly, etc.) ◦ Recommend “sole to me” be changed “parent/legal guardian.” Include individual checkboxes next to “parent/legal guardian:” with a line to indicate parent or legal guardian’s name. 	
			<p>Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? Yes, the new layout on form DV-105, items 7 and 8 is easier for self-represented litigants to understand and complete.</p>	<p>Thank you for your response. The committee agrees that the new layouts for custody and visitation are more user-friendly and recommends using them on form DV-105.</p>
			<p>Recommend item 7 be retitled to include the word “children” to match the information section on top of page 3.</p>	<p>The committee has included “children” when referring to visits or visitation (i.e. visits with children).</p>
			<p>Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example? No</p>	<p>Thank you for your response.</p>
			<p>Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? The proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm. Yes, language to implement Senate Bill 654 should be included on the domestic violence restraining order forms.</p>	<p>The committee agrees and has added space on the order form (DV-140) for the judicial officer to state their reasons for granting unsupervised visit would be helpful. This new item is at 11a on form DV-140. The committee also recommends adding at item 7c of form DV-140, space for the judge to state its reasons for granting custody to the person in 2 (restrained person).</p>

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			<p>Would the proposal provide cost savings? If so, please quantify. No, the proposal does not appear to provide cost savings.</p>	<p>No response required.</p>
			<p>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?</p> <ul style="list-style-type: none"> ◦ Training for case processing clerks and courtroom clerks (approximately 1-2 hours for each position), judicial officers (approximately 1 hour). ◦ Revising event codes in case management systems. ◦ Revising processes and procedures. 	<p>Thank you for your response.</p>
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? No, six months will be needed for implementation of system updates, procedures, and training.</p>	<p>Thank you for your response. Many of the changes in this proposal are to implement new laws that became effective on January 1, 2022. Given the importance and safety issues associated with the new laws, specifically Senate Bill 320, the committee does not recommend delaying implementation of this proposal.</p>
			<p>How well would this proposal work in courts of different sizes? This proposal would work for Orange County.</p>	<p>Thank you for your response.</p>
<p>8.</p>	<p>Superior Court of Riverside County by Susan D. Ryan, Chief Deputy of Legal Services</p>	<p>NI</p>	<p>Does the proposal appropriately address the stated purpose? Yes</p>	<p>Thank you for reviewing and submitting comments for this proposal.</p>

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			<p>Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)? Yes, this would be helpful to see if items turn in match any items that may have been disclosed by the protected person. This would help establish a record of firearms know to be owned by the restrained person.</p>	<p>The committee agrees that having more information on what was done with the firearms would be helpful. The goal of indicating the actions “stored” or “seized” is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee recommends using, “stored,” or “to be destroyed.”</p>
			<p>Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete? Yes, this does seem clear.</p>	<p>The committee agrees and recommends using the new layout.</p>
			<p>Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? Yes, this does seem clear.</p>	<p>The committee agrees and recommends using the new layout.</p>
			<p>Are there other examples of reproductive coercion that should be listed in item 5 of the DV-100, instead of the proposed example? No</p>	<p>The committee agrees that the examples are sufficient. One change was made to the example, in response to a comment received. The committee changed the example to include trying to interfere or control “access to health information,” and not just access to “access to related health information.”</p>
			<p>Should language to implement Senate Bill 654 be included on the domestic violence restraining order forms? The proposal can be found at www.courts.ca.gov/policyadmin-invitationstocomment.htm?</p>	<p>In the context of domestic violence restraining order matters, Senate Bill 654 would require the court to indicate on the record or in writing, its reasons for granting unsupervised visits. The committee does recommend including space for this on the order form (DV-140, at item 11(a)).</p>

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			<p>It is not clear what language is referenced. Below is the implementation language for SB 654 [commenter included text from the bill which is not included here] from leginfo.legislature.ca.gov. This language may be too detailed or difficult for parties to understand, particularly children. Perhaps shorter simplified language would be better.</p>	
			<p>Would the proposal provide cost savings? If so, please quantify. None</p>	<p>Thank you for your response.</p>
			<p>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? These are significant changes. Clerk’s office and courtroom staff would need to be trained on how to process these types of documents. Procedures would need to be created/modified. Codes would need to be created in the case management system for processing the new documents and hearings.</p>	<p>No response required.</p>
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? No</p>	<p>Thank you for your response. The committee appreciates the amount of work involved in implementing new forms changes. Many of the changes in this proposal are to implement new laws that became effective on January 1, 2022. Given the importance and safety issues associated with the new laws, specifically Senate Bill 320,</p>

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	Commenter	Position	Comment	Committee Response
				the committee does not recommend delaying implementation of this proposal.
			How will would this proposal work in courts of different sizes? These are substantial changes. Smaller courts with less resources for training and IT may find these changes challenging.	Thank you for your response.
9.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	Does the proposal appropriately address the stated purpose? Yes.	Thank you for reviewing and commenting on this proposal.
			Would it be helpful or relevant for courts to know whether a specific firearm or other prohibited item was stored or seized by law enforcement (see page 4 of form DV-800/JV-270)? Yes, it would be helpful.	The committee agrees. The goal of indicating the actions “stored” or “seized” is to communicate to the court whether an item could be returned to the restrained person after the restraining order terminates. After speaking with law enforcement, the committee now recommends using, “stored,” or “to be destroyed.”
			Is the new layout for the child custody section (form DV-105, item 6) easier for self-represented litigants to understand and complete? Yes.	The committee agrees and recommends using the new layout.
			Is the new layout for the visitation section (form DV-105, items 7 and 8) easier for self-represented litigants to understand and complete? Yes.	The committee agrees and recommends using the new layout.
			Are there other examples of reproductive coercion that should be listed in item 5 of form DV-100, instead of the proposed example? Propose adding “or interfere with” after “tried to control”, which would be beneficial and a key component of reproductive coercion.	The committee has made this change.

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

	Commenter	Position	Comment	Committee Response
			<p>Would the proposal provide cost savings? If so, please quantify. No.</p>	<p>No response required.</p>
			<p>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? Updating internal procedures, local packets, case management entries, and training staff.</p>	<p>Thank you for your response.</p>
			<p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, if the final versions of the forms are provided to the court by that time. This will ensure that the court is able to update local packets and obtain printed stock.</p>	<p>The committee agrees that three months would be sufficient time to implement this proposal. The final programmed versions of the forms are usually available by November of 2022. However, training on how to use the new forms could start as soon as the council approves the proposal.</p>
			<p>How well would this proposal work in courts of different sizes? It appears that the proposal would work for courts of all sizes.</p>	<p>Thank you for your response.</p>
			<p>DV-100</p>	
			<p>Item 9: Propose a column or checkbox to indicate whether firearm is registered</p>	<p>The committee did not make this change but did include an instruction to indicate the serial number, when known.</p>
			<p>Item 15: Propose reverting to former section name. “Request for Orders for Minor Children” may be interpreted as orders by which the</p>	<p>The committee recommends reverting back to the existing heading for this item which is “Child Custody and Visitation.”</p>

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	Commenter	Position	Comment	Committee Response
			minor(s) must comply. Alternatively change to “Request for Orders Regarding Minor Children.”	
			DV-105	Because the committee no longer recommends combining form DV-108 with form DV-105, the committee recommends keeping the current title of form DV-105 as-is. The committee recommends keeping the heading as proposed. This language is included at the end of the form so that it is clear that it applies to the entire form. This change has been made. This change has been made. The committee changed item 2 to “Person to Be Restrained” since this form is a notice for both parties.
			Propose reverting to former form name. “Request for Orders for Minor Children” can be interpreted as orders by which the minor(s) must comply. Alternatively change to “Request for Orders Regarding Minor Children.”	
			Item 1: Propose changing “Your Information” to “Person Asking for Protection” to be consistent with other DV forms.	
			Item 11: Propose moving language that the statements are made under penalty of perjury to the top of the section so that it is more visible.	
			DV-105(A) Child of children lived with: Propose changing “Parent in 2” column to “Person in 2” to be consistent with DV-105.	
			DV-109	
			Item 1: Propose changing “Name of Person Asking for Order” to “Person Asking for Protection” to be consistent with DV-100.	
			Item 2: Propose changing “Name of Person to be Restrained” to “Person You Want Protection From” to be consistent with DV-100.	

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	Commenter	Position	Comment	Committee Response
			<p>DV-110</p> <p>Item 6: Propose removing checkboxes for compliance because that is not possible prior to issuance of DV-110. If this is meant to reflect a finding when a DV-110 is continued, that should be done through a form attached on the DV-116 or perhaps the stand-alone DV-820 is preferable, which could then be attached to the DV-110 when applicable or DV-130. Inserting the checkboxes here will likely cause confusion for judicial officers. Another benefit of a stand-alone form is that it could be used to indicate that notification to law enforcement and/or the local prosecuting attorney was completed as required by Family Code sections 6306 and 6389. Having these findings and notifications made only on DV-130 does not seem efficient or sufficient to comply with the notifications, which could be made on a continued DV-110.</p> <p>Item 7: Propose removing this section and including on a separate document or format for reasons provided above regarding item 6.</p> <p>Item 14: Propose reverting to former section name. “Request for Orders for Minor Children” can be interpreted as orders by which the minor(s) must comply. Alternatively, change to</p>	<p>The committee did not remove the checkboxes for compliance. In the event that the court seeks to amend a previously issued form DV-110, including some information here regarding proof of compliance may be sufficient and avoid the need for the attachment (form DV-820). For example, the restrained person may have firearms and be fully compliant with the firearms relinquishment order.</p> <p>Some courts may have a practice of setting review hearings for all cases in which temporary orders were granted. Also, some courts consider the request for temporary orders at an ex parte hearing. Because of these situations, the committee recommends keeping the item on scheduling a compliance review hearing.</p> <p>The committee recommends reverting back to the existing heading for this item which is “Child Custody and Visitation.”</p>

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	Commenter	Position	Comment	Committee Response
			<p>“Request for Orders Regarding Minor Children.”</p>	
			<p>DV-120 Item 13: Propose reverting to former section name. “Request for Orders for Minor Children” can be interpreted as orders by which the minor(s) must comply. Alternatively, change to “Request for Orders Regarding Minor Children.”</p>	<p>The committee recommends reverting back to the existing heading for this item which is “Child Custody and Visitation.”</p>
			<p>DV-120-INFO Propose reverting reference to “Request for Orders for Minor Children” as indicated above.</p>	<p>This form no longer references form DV-105 or DV-140.</p>
			<p>DV-125 Propose renaming form “Response to Request for Orders Regarding Minor Children.” Existing title can be interpreted as orders by which the minor(s) must comply</p>	<p>The committee recommends reverting back to the existing title for forms DV-105 and DV-140.</p>
			<p>DV-130 Item 4: Propose editing the language to state: “Custody and visitation orders end when the child is 18” since that is always true, and the remainder could read “child support orders end by operation of law on or after the child is 18.”</p>	<p>The committee believes that the information provided is sufficient to give the person general information about when orders typically end. The current language is in plain language and easy to understand, while the language “by operation of law” would not be understood by laypeople.</p>
			<p>Item 8: Propose adding checkboxes to indicate whether the item is registered to assist with compliance and future orders. In addition,</p>	<p>The committee did not accept the suggestion to indicate whether an item is registered as some courts will not have access to the Automated Firearm System, and space is limited in this</p>

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	Commenter	Position	Comment	Committee Response
			<p>recommend including serial numbers to assist with enforcement.</p>	<p>section. The committee did add an instruction to list the serial number if it is known.</p>
			<p>Item 17: Propose reverting to former section name. “Request for Orders for Minor Children” can be interpreted as orders by which the minor(s) must comply. Alternatively change to “Request for Orders Regarding Minor Children.”</p>	<p>The committee recommends reverting back to the existing heading, which is “Child Custody and Visitation Order.”</p>
			<p>Item 30: If the committee interprets a remote appearance at such a hearing to be sufficient such that no further service of the order is needed, it would be helpful to courts to have a CRC which expressly includes such language, since the emergency orders on this topic are set to sunset soon.</p>	<p>In order to address any uncertainty as to whether further service is required for enforcement purposes when the restrained person appeared remotely, the advisory committees dealing with protective orders will consider developing a rule of court to address this issue in a future cycle. Until such a rule is in place, the committee withdraws its recommendation to change the language in this item.</p>
			<p>Notice/Proof of Service: This section uses the language that has been updated elsewhere in the forms, “The restrained person was at the restraining order hearing” if a remote appearance by a Respondent will suffice for service purposes, this should also be reflected here.</p>	<p>In order to address any uncertainty as to whether further service is required for enforcement purposes when the restrained person appeared remotely, the advisory committees dealing with protective orders will consider developing a rule of court to address this issue in a future cycle. Until such a rule is in place, the committee withdraws its recommendation to change the language in this item.</p>
			<p>DV-140</p>	
			<p>Propose reverting to former form name. “Orders for Minor Children” can be interpreted as orders by which the minor(s) must comply.</p>	<p>The committee agrees to keep the current name for DV-140 “Child Custody and Visitation Order”</p>

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	Commenter	Position	Comment	Committee Response
			Alternatively change to “Orders Regarding Minor Children.”	
			Item 8: The findings included in the proposed version of FL-341, item 9(b) should be added here so those mandatory findings are made as the issuance of DV-130 necessarily implicates Family Code sections 3011(a)(5)(A) and 3044.	The committee has added space for a judicial officer to state their reasons for granting unsupervised visits at item 11a on form DV-140. The committee also recommends adding at item 7c of form DV-140 to address the requirements related to granting sole or joint custody to the restrained person.
			DV-505-INFO	
			Propose the last paragraph on page one replace the word “parent” with “relative” because most courts would not find a parent a suitable guardian ad litem for a child bringing a restraining order against another parent, and this reference can cause confusion.	The committee has changed the language to “trusted relative” which could include a parent, as this determination will be made on a case-by-case basis.
			Propose adding that the judge will receive information regarding registered firearms through the Family Code section 6306 search, but information about firearms that have not been registered nor ammunition is generally unavailable to the court unless that information is provided by the party seeking a restraining order.	The committee did not add this information as some courts may not have access to the Automated Firearms System.
			DV-520-INFO	
			Propose adding “or child custody recommending counseling” to the process described in “What if I have a child with the	The committee believes that the current reference to a “court professional” is sufficient.

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	Commenter	Position	Comment	Committee Response
			other side?” to accurately describe the process in all counties.	
			Propose adding language to recommend logging into a remote appearance early in addition to “Show up to the hearing* early” in the event of technical difficulties.	The committee has added information about trying out remote technology.
			Propose editing the section regarding continuances because judges do not need to grant a restrained party’s request to continue the hearing if requested at the first hearing in the event they have already filed a response.	The committee has changed the language to indicate that a continuance must be granted if the restrained person has not filed a response.
			DV-530-INFO Propose adding, “or restricts access to your child’s information” to the first bullet point under the section regarding providing a copy of the order to other people and/or reference the next section below for additional orders regarding children.	The committee believes it is sufficient to have this information under the section, “What if the Judge Granted Orders to Protect My Children?”
			DV-800-INFO Propose adding “Ammunition includes:” section.	Examples of ammunition have been added.
			DV-820	
			Propose adding a section for serial numbers and check boxes to indicate whether registered to ensure compliance and enforcement.	The committee did not accept the suggestion to indicate whether an item is registered as some courts will not have access to the Automated Firearm System, and space is limited in this section. The committee did add an instruction to list the serial number if it is known.

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	Commenter	Position	Comment	Committee Response
			Propose using a separate form for this when attached to DV-110 because the column for proof of compliance may cause confusion.	The committee did not remove the checkboxes for compliance on form DV-110. In the event that the court seeks to amend a previously issued form DV-110, including information on whether the court has received proof of compliance on form DV-110 may be sufficient and avoid the need for form DV-820. For example, the restrained person may have firearms and be fully compliant with the firearms relinquishment order.
			DV-840: Propose adding a blank line for item 6(b) so it is clear information might need to be added.	The committee has made this change.
			EPO-001: Propose editing first and second highlighted sections on page 2 to accurately reflect “3e” which appears three times in that paragraph.	The committee has made these changes.
10.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee	AM	Due to the volume of changes to the current forms and the creation of new forms, some courts may need to modify their CMS systems as noted by the drafters. While normally, three months is sufficient to implement new forms, courts may require additional time to review internal processes due to the nature and sensitivity of domestic violence cases, hearings, and orders.	Thank you for your response. The committee appreciates the amount of work involved in implementing new forms changes. Many of the changes in this proposal are to implement new laws that became effective on January 1, 2022. Given the importance and safety issues associated with the new laws, specifically Senate Bill 320, the committee does not recommend delaying implementation of this proposal.
			No substantive comments on Form DV-100, other than a stylistic one. I would recommend that the newly added bullet point starting with “tried” is reformatted to fit in the first column.	The committee has made this change.
			No comments on Form DV-109	No response required.

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	Commenter	Position	Comment	Committee Response
			DV-110 - consider changing the phrase “CLETS-TRO” to “California Law Enforcement Telecommunications – TRO.” Many people outside of the judiciary and law enforcement may not understand the term “CLETS.”	This identifier is an agreed upon identifier with the California Department of Justice. It provides the three alpha characters (identifier) needed to enter the order into the CLETS. In the example provided by commenter, “TRO” is the CLETS identifier. Because the intended audience of the identifier is the person entering the restraining order into the CLETS, the committee does not recommend this change. The committee also notes that there are space limitations in the footer that would make it impractical to use the “California Law Enforcement Telecommunications System.”
			DV-116	
			DV-116 – Same recommendation to DV-110 regarding the abbreviation “CLETS.”	Same comment as above.
			On page 3, recommend striking the word “judicial officer” and leave “judge.”	This change would require coordination with other advisory committees. The committee will make note of this suggestion and consider it in the future.
			No comments on DV-120 and DV-120-INFO	No response required.
			No comments on DV-125	No response required.
			DV-130 - On page 8, recommend striking the word “judge” and leave “judicial officer” similar to other statewide forms.	Same response as above.
			No comments on DV-140	No response required.
			No comments on DV 500-INFO	No response required.
			DV 505-INFO seems to have formatting issues on page 2	Thank you. The formatting has been fixed.
			No comments on DV-520-INFO	No response required.
			No comments on DV-530-INFO	No response required.
			No comments on DV-800/JV-270	No response required.
			No comments on DV-800-INFO/JV-270-INFO	No response required.
			No comments on DV-820	No response required.

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	Commenter	Position	Comment	Committee Response
			DV-830 - On page 1, recommend striking the word “judge” and leave “judicial officer” similar to other statewide forms.	Same response as above.
			No comments DV-840/FL-840	No response required.
			EPO-001 - consider changing the phrase “CLETS-EPO” to “California Law Enforcement Telecommunications – EPO.” Many people outside of the judiciary and law enforcement may not understand the term “CLETS.”	Same response as above.

Draft

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:

Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact

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

Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended November 16, 2021, March 21, 2022 and April 6, 2022

Project description from annual agenda: Develop form recommendations as appropriate. AB 1243 establishes new procedures and orders relating to applications for protective orders for elders and dependent adults who have suffered abuse, authorizing orders enjoining a party from isolating an elder. The new law also allows for protective orders to include a finding that specific debts were incurred as a result of elder abuse. The current forms relating to such petitions must be revised to conform to the new law and requirements, and additional forms may be required.

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

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

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

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

This proposal:

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

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-159

For business meeting on September 19–20, 2022

Title

Protective Orders: Elder Abuse Forms
Implementing New Cause of Action
Allowing Contact

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Rules, Forms, Standards, or Statutes Affected

Adopt forms EA-300, EA-309, EA-315,
EA-316, EA-320, and EA-330; approve
forms EA-300-INFO, EA-315-INFO, and
EA-320-INFO; revise forms EA-200,
EA-200-INFO, and EA-250

Date of Report

August 12, 2022

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Recommended by

Civil and Small Claims Advisory Committee
Hon. Tamara Wood, Chair

Executive Summary

The Civil and Small Claims Advisory Committee recommends the adoption, approval, and revision of 12 forms to implement certain statutory changes in Assembly Bill 1243 (Stats. 2021, ch. 273). AB 1243 created a new cause of action whereby a restraining order can be issued allowing contact between an elder or dependent adult and an individual who meets certain statutory requirements. The proposal incorporates these provisions into the council's elder abuse forms and includes updated language concerning interpreters, disability accommodation, and priority of enforcement on the proposed forms.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council take the following actions, effective January 1, 2023:

1. Adopt the following forms:
 - *Request for Elder or Dependent Adult Restraining Order Allowing Contact* (form EA-300);
 - *Notice of Court Hearing to Allow Contact* (form EA-309);
 - *Request to Continue Court Hearing on Request to Allow Contact* (form EA-315);
 - *Order on Request to Continue Hearing on Request to Allow Contact* (form EA-316);
 - *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact* (form EA-320); and
 - *Elder or Dependent Adult Restraining Order Allowing Contact After Hearing* (form EA-330);
2. Approve the following forms:
 - *Can an Elder or Dependent Adult Restraining Order Allowing Contact Help Me?* (form EA-300-INFO);
 - *How to Ask for a New Date for a Hearing to Allow Contact* (form EA-315-INFO); and
 - *How Can I Respond to a Request for an Elder or Dependent Adult Restraining Order Allowing Contact?* (form EA-320-INFO);
3. Revise the following forms:
 - *Proof of Personal Service* (form EA-200);
 - *What Is "Proof of Personal Service"?* (form EA-200-INFO); and
 - *Proof of Service of Response by Mail* (form EA-250).

The proposed new and revised forms are attached at pages 10–39.

Relevant Previous Council Action

Under the Welfare and Institutions Code, the Judicial Council must provide forms and instructions for use in elder abuse protective order matters. The forms have been revised when changes to the law required revisions and in response to suggestions from the public, judicial officers, and court professionals. The last substantive change to elder abuse protective order forms came in 2020 when the council revised forms EA-100, EA-120, and EA-130 to implement legislation allowing a court to issue an order requiring a restrained person to attend clinical counseling or anger management courses.

Analysis/Rationale

Assembly Bill 1243 (Stats. 2021, ch. 273)¹ made two substantial changes to the laws governing protective orders for elder or dependent adults. First, the law created a new cause of action where an order can be issued allowing contact between an elder or dependent adult and an individual who meets certain statutory requirements. (See Welf. & Inst. Code, § 15657.03(a) & (b).)² Second, the bill allows courts to issue findings related to specific debts incurred as the result of

¹ AB 1243 is available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1243.

² All further statutory citations are to the Welfare and Institutions Code unless otherwise noted.

financial abuse of an elder or dependent adult. (See § 15657.03(b)(5)(D).) When the proposal was circulated for comment, it contained new and revised forms to implement both changes in AB 1243. However, in light of subsequent legislation requiring further revisions to the EA-100 form series,³ this proposal is now limited to new and revised forms necessary to implement the new cause of action in AB 1243. In addition, the committee recommends updated information about interpreters, disability and court accommodations, and the priority of enforcement among protective orders on certain forms in this proposal.

New EA-300 form series

AB 1243 provides that an elder or dependent adult or certain other individuals may obtain a restraining order allowing contact between a specific person and the elder or dependent adult under certain circumstances. Specifically, to issue such an order the court must find, among other things, that the person who wishes to have contact with the elder or dependent adult has a preexisting relationship with the elder or dependent adult and that the elder or dependent adult expressly desires contact with the person. (§ 15657.03(b)(5)(E).)

In addition to the specific findings that must be made for such an order to issue, the new type of order to allow contact also differs from other elder and dependent adult restraining orders because several components of other elder abuse restraining orders are expressly excluded from the new cause of action. For example, notice and a hearing are required for a restraining order allowing contact to issue, meaning temporary restraining orders are not permitted. (§ 15657.03(b)(5)(E)(i).) Additionally, any such orders issued without allegations of force, threat, harassment, or intimidation are not to be transmitted to the Department of Justice and entered into the California Law Enforcement Telecommunications System (CLETS) (§ 15657.03(p)(8)) and the restrained person is not required to relinquish any firearms or ammunition (§ 15657.03(u)(4)).

Given the unique findings that must be made in order for this new type of restraining order to issue and that many of the existing elder or dependent adult restraining order provisions do not apply to orders allowing contact, the committee recommends that, rather than revising the current elder abuse forms (the EA-100 series), a new series of elder abuse forms be adopted for such actions. The proposed new series contains a request form (EA-300), an information sheet about the request form (EA-300-INFO), a notice of court hearing (EA-309), a request to continue the hearing (EA-315), an information sheet about how to use the continuance request form (EA-315-INFO), an order to continue the hearing (EA-316), a form to respond to the petition

³ Specifically, effective June 30, 2022, Assembly Bill 1621 (Stats. 2022, ch. 76) adds a definition of “firearm” for the purposes of elder abuse restraining orders that includes firearm parts, specifically receivers, frames, and “firearm precursor parts” as defined under Penal Code section 16531(a). AB 1621 is not applicable to the new cause of action in AB 1243 that is being implemented in the forms in the instant proposal because individuals restrained under that cause of action are not required to relinquish firearms. (§ 15657.03(u)(4).) Revisions to forms in the EA-100 series to implement the statutory changes in AB 1621 and AB 1243 will be included in a separate proposal which the committee expects to recommend to the council in November.

(EA-320), an information sheet about how to respond (EA-320-INFO), and a form on which to issue the restraining order (EA-330).

Each new proposed form parallels an existing 100-series form without items that do not apply to this new cause of action, and with certain changes. The differences between the original 100-series and the new 300-series include the following:

- The form titles in the EA-300 form series include “allowing contact” or “to allow contact.”
- The forms in the 300-series refer to the parties as the “elder(s) or dependent adult(s),”⁴ the “person alleged to be preventing contact,” and the “person who wants contact with the elder(s) or dependent adult(s).”
- The proposed EA-300 forms do not request the identifying characteristics or the address of the respondent, which are entered into CLETS for other restraining orders, and do not contain any reference to relinquishing firearms.
- The 300-series does not contain or reference any of the various other orders that may be obtained in cases of elder or dependent adult abuse generally, such as orders to stay away or move out. Instead, forms in the EA-300 series only refer to an “order allowing contact.”
- The new forms do not permit a request for or refer to temporary restraining orders nor contain a temporary restraining order form, because the new orders are allowed only after notice and hearing.
- The new request form collects information from the petitioner so the court can make the findings required in section 15657.03(b)(5)(E). Such findings are listed on the new order form.
- The request form also explains that orders to allow contact cannot be issued if the elder or dependent adult is a resident of a long-term care facility or a hospital patient, as provided by section 15657.03(b)(5)(E)(iv) and (v).
- The new request and response forms reflects that the petitioner can only request a single order (to allow contact) under the relevant cause of action. Similarly, the order form does not contain orders which the new law does not support, such as the relinquishment of firearms, but does allow the court to make “other orders.”

New EA-300 information sheets

The information sheets relating to the new 300 forms include a description of a restraining order allowing contact and the circumstances that must be present to obtain one. The information sheet

⁴ While form EA-100 permits applicants to request that the orders also protect other persons in the same household, as provided by section 15657.03(b)(5)(A), that section does not apply to orders allowing contact. However, it is possible that more than one elder or dependent adult in the same household is being prevented from seeing a particular person that both elders or dependent adults have a preexisting relationship with. Accordingly, proposed form EA-300 allows multiple elders in the same household to join in the request.

about obtaining this new kind of order also directs filers to form EA-100-INFO for information about obtaining a restraining order based on other types of abuse.

Much of the information about cost, where to get forms, interpreters, disability accommodation, and court procedures on new forms EA-300-INFO and EA-320-INFO is identical to the information offered on existing forms EA-100-INFO and EA-120-INFO. The committee recommends that the language about interpreters and disability accommodations on forms EA-300-INFO and EA-320-INFO be updated from the current language on the EA-100 series.

The proposed items regarding interpreters include a reference to forms where litigants may request an interpreter and a court website providing more information about interpreters, which has been translated into several languages

The committee also recommends broadening the language about disability, including reference to “disabilities” generally, as opposed to just hearing disabilities, and to also reference the information sheet about requesting court accommodations.

Identical language will be proposed in information sheets for the elder abuse 100-series restraining orders, as well as civil harassment, gun violence, private postsecondary school violence, and workplace violence restraining orders in when the committee recommends revisions to those forms in the near future.

Orders—priority of enforcement

Finally, the new order form in the proposal (form EA-330) contains a “Conflicting Orders—Priority of Enforcement” section that is included on all order forms for protective orders (e.g., CH-110, CH-130, EA-110). The committee recommends new language be used on form EA-330 to reflect current law and to provide greater clarity. This language was developed by several advisory committees that work together to ensure consistency on protective order forms where possible and appropriate. It is being recommended by the Family and Juvenile Law Advisory Committee for use on domestic restraining order forms, and has been agreed to by the Criminal Law Advisory Committee, which is expected to recommend its use on criminal protective order forms in the near future.

As circulated, the committee proposed additional language in the “Criminal Order” item from Penal Code section 136.2(e)(2), which prioritizes enforcement of criminal protective orders in pending cases for domestic violence offenses, specified sex offenses, and offenses requiring sex offender registration. In response to comments received on a proposal revising domestic violence restraining order forms to clarify and simplify the priority of enforcement language, the committee recommends the following modifications to the form:

- Spell out “Emergency Protective Order” instead of using “EPO.”
- Include an example of where to find a no-contact order.
- Substitute “Criminal Protective Order” for “Criminal Order.”

- Change the title of the last item to “Civil Restraining Orders” and provide examples of such orders.
- Modify the language throughout the section to better explain that all nonconflicting order terms must be enforced.
- Explain that the priority of enforcement is only applicable when “more than one restraining order has been *issued protecting the protected person from the restrained person,*” which has previously not been included on the forms in this proposal.

The committee expects to recommend identical language in the recommendations for the elder abuse 100-series restraining orders, as well as civil harassment, criminal, private postsecondary school violence, and workplace violence restraining orders, which it expects to bring to the council in the near future.

Revised EA-200 form series

The recommended adoption and approval of the new EA-300 series of elder abuse forms also requires minor revisions to existing elder abuse forms regarding service of documents. The proposed revisions to those forms are as follows:

- Revise items 1 and 2 on form EA-200 to refer to the “elder or dependent adult” and the “person from whom protection is sought or person preventing contact” so the form can be used with both the EA-100 form series and the EA-300 form series.
- Add the applicable EA-300 series forms to the revised forms where service of specific forms is discussed or listed.
- Expand the “Notice to Server” (item 3 on forms EA-200 and EA-250) to explain that the parties to a case requesting an order allowing contact cannot also be the “server.”
- Note on form EA-200-INFO that the instructions regarding CLETS do not apply to forms in the EA-300 series.

Policy implications

The new and revised forms in this proposal implement statutes that create a new cause of action to obtain a restraining order by or on behalf of an elder or dependent adult. Accordingly, the key policy implications are ensuring that council forms reflect the law correctly and are not misleading to parties. The proposed forms should assist courts and parties in navigating new and existing statutory provisions related to restraining orders for elders or dependent adults.

Comments

The proposal was circulated for public comment between April 6 and May 13, 2022, as part of the regular winter comment cycle. Comments were received from the Orange County Bar Association, the Superior Court of Los Angeles County, the Training and Analyst Group of the Superior Court of Orange County, the Superior Court of San Bernardino County, the Superior Court of San Diego County, and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (TCPJAC/CEAC

Joint Rules Subcommittee).⁵ Most of the of the commenters indicated their support of the proposal or that the proposal appropriately addressed its stated purpose. All of the commenters offered suggestions; the significant suggestions are discussed below. A chart setting forth all the comments and the committee's responses is attached at pages 40–62.⁶

Order of parties

As circulated for comment, forms EA-300 and EA-309 listed the person requesting the order first, followed by the “person preventing contact,” the “elder or dependent adults to receive contact,” and finally the “person who wants to have contact with the elder or dependent adults.” The Invitation to Comment also included a specific question about the appropriate order for listing parties on these forms EA-300 and EA-309. The comments provided mixed responses. The Orange County Bar Association and the Superior Court of Los Angeles believed the elder or dependent adult should be listed first. Similarly, the Superior Court of Los Angeles suggested that the order of parties on form EA-300 be: the elder or dependent adult; the respondent; the person requesting the order; the person seeking contact. Finally, the Superior Court of Orange County Training and Analyst Group, the Superior Court of San Bernardino, and the Superior Court of San Diego believed listing the person requesting the order first was appropriate.

Under section 15657.03(a) of Welfare & Institutions Code, only the elder or dependent adult has the right to seek a protective order allowing contact. Any other person empowered to seek such an order would be doing so on behalf of the elder or dependent adult, including a person who has been prevented from seeing the elder or dependent adult. Accordingly, in light of this statutory provision and the comments, the committee recommends listing the elder(s) or dependent adult(s) first on forms EA-300 and EA-309, followed by the respondent, then the person wanting contact with the elder or dependent adults, and finally the person requesting the order.

Request to provide less than five days' notice

The invitation to comment also contained a question about item 12 on form EA-300, which allows the petitioner to request that service on respondent be given less than five days before the hearing. There was concern as to how the court would rule on such a request given that there is no temporary restraining order available for the order allowing contact. Most of the commenters suggested that item 12 on form EA-300 is fine as proposed and that the judge can decide on such a request on form EA-309 if an option for the court to order less than five days' service is included on that form. The committee agrees with such a suggestion and the proposal has been modified accordingly.

⁵ A comment was also received from Open Arms and Loving Hands, but the comment only addressed details of a specific case and did not address any of the issues in the proposal.

⁶ As noted above, the proposal that was circulated included the EA-100 series, and the comment chart includes some comments on those forms. The committee has considered those comments and they will be addressed in the separate report on the EA-100 forms, after they have been recirculated.

Terminology

One commenter suggested that several terms included in the circulated version of the EA-300 series suggested implicit bias in favor of the petitioner. Accordingly, the committee recommends the following terms on the forms:

- “Elder(s) or Dependent Adult(s)” instead of “Elder or Dependent Adults to Receive Contact”
- “Person Alleged to be Preventing Contact” instead of “Person Preventing Contact”

While a commenter also suggested the word “excuse” on the response (form EA-320) implied bias, the committee retained the term because it is used in response forms across civil protective orders. The committee also retained “party” on the order on a request to continue the hearing (form EA-316), to also remain consistent with forms used in other types of protective orders, which use “party” because only a party may request a continuance (as opposed to other people that might be protected by the order who are not parties).

The committee also does not recommend the modification suggested by TCPJAC/CEAC Joint Rules Subcommittee to use “protective order” rather than “restraining order” in the title of the form 300-series because all of civil protective orders are referred to as “restraining orders” (e.g., “Civil Harassment Restraining Order,” “Domestic Violence Restraining Order,” etc.). Additionally, section 15657.03(b)(5)(E) provides that “an order may be issued . . . to *restrain* the respondent for the purpose of preventing a recurrence of isolation” (emphasis added).

Service of order after hearing

Some public comments were received on the Family and Juvenile Law Advisory Committee’s concurrent proposal on domestic violence forms, and internally from a member of the Rules Committee, concerning the issue of service of restraining orders after hearing when the respondent appears at the hearing remotely. This is outside the scope of the current proposal, but the committee will work with the Family and Juvenile Law Advisory Committee in the next rules cycle to address uncertainty in that area and will consider developing a rule of court.

Alternatives considered

Because AB 1243 provides for issuance of an order allowing contact with an elder or dependent adult under certain circumstances, which is not provided for on the council’s current mandatory elder abuse forms, and because the Welfare and Institutions Code requires the council to develop forms for elder abuse claims, the committee determined it must act and that taking no action would be inappropriate.

In addition to considering the alternatives raised in the comments, the committee considered the alternative of adding items related to the new orders allowing contact to the existing EA-100 form series rather than creating a new form series, but concluded that doing so would result in confusion and an overly complex set of forms. Not only will cases concerning an order to allow contact require the pleading of additional facts and potentially the identification of another party (the person wishing to contact the elder or dependent adult), but many of the items on the

existing EA-100 forms series would not apply in such cases. Trying to capture the additional information and explain that certain items do not apply to certain types of cases in a single set of forms proved difficult to explain and to understand.

Fiscal and Operational Impacts

Most of the impacts arising from this new law—including education of judicial officers, staff, and justice partners as to the new provisions—are a result of the statute, not the forms proposal. The committee anticipates that this proposal will result in some costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff. However, all the new and revised forms are intended to assist courts in dealing with the impact of the legislation by making it easier for clerks and judicial officers to process requests for orders to allow contact or findings related to specific debts.

Attachments and Links

1. Forms EA-200, EA-200-INFO, EA-250, EA-300, EA-300-INFO, EA-309, EA-315, EA-315-INFO, EA-316, EA-320, EA-320-INFO, EA-330, at pages 10–39
2. Chart of comments, at pages 40–62
3. Link A: AB 1243,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1243

Clerk stamps date here when form is filed.

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8/12/2022

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the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elder or Dependent Adult

Name: _____

2 Person From Whom Protection Is Sought or Person Alleged to Be Preventing Contact

Name: _____

3 Notice to Server

The server must:

- Be 18 years of age or older.
- Not be listed in items 1, 3, or 6 of form EA-100 or be listed in items 1, 2, 3, or 4 on form EA-300.
- Give a copy of all documents checked in 4 to the person in 2. (You cannot send them by mail.) Then complete and sign this form and give or mail it to the person in 1.



PROOF OF PERSONAL SERVICE

4 I gave the person in 2 a copy of the forms checked below:

- a. EA-109, *Notice of Court Hearing*
- b. EA-110, *Temporary Restraining Order*
- c. EA-100, *Request for Elder or Dependent Adult Abuse Restraining Orders*
- d. EA-120, *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (blank form)
- e. EA-120-INFO, *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?*
- f. EA-130, *Elder or Dependent Adult Abuse Restraining Order After Hearing*
- g. EA-250, *Proof of Service of Response by Mail* (blank form)
- h. EA-800, *Proof of Firearms Turned In, Sold, or Stored* (blank form)
- i. EA-300, *Request for Elder or Dependent Adult Restraining Order Allowing Contact*
- j. EA-309, *Notice of Court Hearing to Allow Contact*
- k. EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact* (blank form)
- l. EA-320-INFO, *How Can I Respond to a Request for an Elder or Dependent Adult Restraining Order Allowing Contact?*
- m. EA-330, *Elder or Dependent Adult Restraining Order Allowing Contact After Hearing*
- n. Other (specify): _____

5 I personally gave copies of the documents checked above to the person in 2:

- a. On (date): _____ b. At (time): _____ a.m. p.m.
- c. At this address: _____
City: _____ State: _____ Zip: _____

Case Number: _____

6 Server's Information

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

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

Date: _____

Type or print server's name

▲

Server to sign here

What is “Service”?

Service is the act of giving your legal papers to the other party. There are many kinds of service—in person, by mail, and others. This form is about personal or “in-person service.” The following types of restraining order forms must be served “in person”: *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100), the *Notice of Court Hearing* (form EA-109), *Temporary Restraining Order* (form EA-110), *Request for Elder or Dependent Adult Restraining Order Allowing Contact* (form EA-300), and *Notice of Court Hearing to Allow Contact* (form EA-309). That means that someone must personally “serve” (give) a copy of the forms to the person to be restrained. These forms cannot be served by mail.

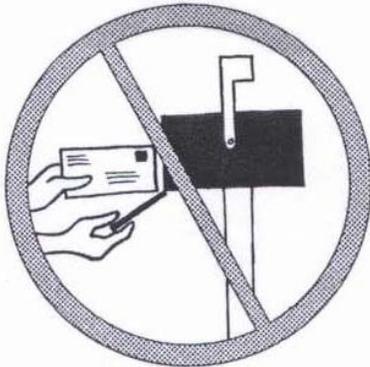
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Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

7/21/2022**Not approved by
the Judicial Council****Why do I have to get the orders served?**

- The police cannot arrest anyone for violating an order unless that person knows about the order.
- The judge cannot make the orders permanent unless the restrained person was served.

*Don't serve it by mail!***Who can serve?**

Ask someone you know, a process server, or a law enforcement agency to personally serve (give) a copy of the forms to the person to be restrained. You **cannot** send the forms to that person by mail. The server must:

- Be 18 years of age or older
- Not be you or anyone whom you are asking to be protected by the orders. The sheriff or marshal may be authorized to serve the court’s orders **for free**. A “registered process server” is a business you pay to deliver court forms. Look for “Process Serving” in the Yellow Pages or on the Internet. (If a law enforcement agency or the process server uses a different proof of service form, make sure it lists the forms served.)

How to serve Ask the server to:

- Walk up to the person to be served.
- Make sure it is the right person. Ask the person’s name.
- Give the person copies of all papers checked on form EA-200, *Proof of Personal Service*.
- Fill out and sign the *Proof of Personal Service* form.
- Give the signed *Proof of Personal Service* to you.

What if the person won’t take the papers or tears them up?

- If the person won’t take the papers, just leave them near him or her.
- It doesn’t matter if the person tears them up. Service is still **complete**.



When do the orders have to be served? It depends. To know the exact date, you have to look at two things on form EA-109, *Notice of Court Hearing* or form EA-309, *Notice of Court Hearing to Allow Contact* :

First, look at the hearing date on form EA-109 (item ③ on page 1) or form EA-309 (item ⑤ on page 2).

Next, look at the number of days in item ⑤ on page 2 of form EA-109 or in item ⑥ on page 2 of form EA-309.

③ **Notice of Hearing**

Hearing Date → Date: _____
Dept.: _____

⑤ **Service of Documents By the Person in ①**

At least five _____ days before the hearing,

Look at a calendar. Subtract the number of days in item ⑤ on form EA-109 or the number of days in item ⑥ on form EA-309 from the hearing date. That is the final date to have the orders served. It is always OK to serve earlier than that date. If nothing is checked or written in ⑤ on form EA-109 or ⑥ on form EA-309, you must serve the orders at least five days before the hearing.

Who signs the *Proof of Personal Service*?

Only the person who serves the forms can sign form EA-200, *Proof of Personal Service*. You do not sign it; the restrained person does not need to sign it.

What do I do with the completed *Proof of Personal Service*?

If someone other than the sheriff serves the papers, you should:

- Make several copies.
- File the original with the court before your hearing.
- Bring a copy of the completed *Proof of Personal Service* to your hearing.
- Ask the clerk to enter the *Proof of Service* (unless for form EA-300) into the California Law Enforcement Telecommunications System (CLETS), a special computer system that lets police all over the state find out about the orders protecting you.
- If the clerk tells you that the court cannot enter it into the computer, take a copy of the *Temporary Restraining Order* (form EA-110) and *Proof of Personal Service* (form EA-200) to your local police. They will put the information into the state computer system. That way, police all over the state will know that your restraining order has been served.
- If the sheriff serves the papers, he or she will send the proof of service to the court and CLETS for you.
- Always keep an extra copy of the restraining orders with you for your safety.
- **Note: Restraining orders to allow contact (which use the EA-300 form series) are not entered into CLETS.**

What happens if I can't get the orders served before the hearing date?

Before your hearing, fill out and file form EA-115, *Request to Continue Court Hearing and to Reissue Temporary Restraining Order* (or form EA-315, if you are trying to serve forms EA-300 or EA-309). This form asks the court for a new hearing date and makes your orders last until then. Ask the clerk for the form. After the court has reissued the orders, attach a copy of form EA-116, *Notice of New Hearing Date and Order on Issuance*, (or form EA-316) to a copy of your original orders. Ask the clerk to enter form EA-116 into CLETS, or the clerk may ask you or your attorney to deliver a copy to the police. That way, the police will know your orders are still in effect.

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1 Elder or Dependent Adult Seeking Protection

Full Name: _____

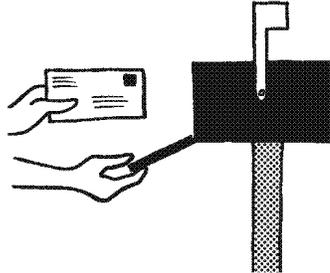
2 Person From Whom Protection Is Sought

Your Full Name: _____

3 Notice to Server

The server must:

- Be 18 years of age or older.
- Live or be employed in the county where the mailing took place.
- Not be listed in items **1**, **3**, or **6** of form EA-100 or in items **1**, **2**, **3** or **4** on form EA-300.
- Mail a copy of all documents checked in **4** to the person in **1**.
- Complete and sign this form and give it to the person in **2**.



Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

4 PROOF OF SERVICE BY MAIL

I am 18 years of age or older and not a party to this proceeding. I live or am employed in the county where the mailing took place. I mailed the person in **1** a copy of all documents checked below:

- a. Form EA-120, *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (completed)
- b. Form EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact*
- c. Other (specify): _____

5 I placed copies of the documents above in a sealed envelope and mailed them as described below:

- a. Mailed to (name): _____
- b. To this address: _____
City: _____ State: _____ Zip: _____
- c. On (date) _____ Mailed from (city): _____ State: _____

6 Server's Information

Name: _____ Telephone: _____
Address: _____
City: _____ State: _____ Zip: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

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

Date: _____

Server to sign here

Type or print server's name

Use this form to obtain an order allowing contact between an elder or dependent adult and another person.

- Read *Can an Elder or Dependent Adult Restraining Order Allowing Contact Help Me?* (form EA-300-INFO) before completing this form.
- **Note:** This order cannot be issued if the elder or dependent adult lives in a long-term care or residential facility or is a patient at a hospital.
- If you want a restraining order for other abuse, such as physical or financial abuse, use *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100). Read *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form EA-100-INFO) for more information.

DRAFT

8/3/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elders or Dependent Adults

(List each elder or dependent adult in the same household who wants to have contact with the person named in 3 and their age below.)

<u>Full Name</u>	<u>Age</u>
_____	_____
_____	_____
_____	_____

- Check here if there are more elders or dependent adults in the same household who also want to have contact with the person named in 3. List those persons and their ages on an attached sheet of paper and write "Attachment 1—Additional Elders or Dependent Adults" for a title. You may use form MC-025, Attachment.

2 Person Alleged to Be Preventing Contact

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

3 Person Who Wants Contact With the Elders or Dependent Adults

- a. Full Name: _____
- b. Describe this person's preexisting relationship to the elders or dependent adults named in 1:
- _____
- _____
- _____

- Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 3—Preexisting Relationship" for a title.

This is not a Court Order.



4 Person Requesting Order

Who is asking the court for an order? (Check a, b, c, or d):

- a. The elders or dependent adults named in ①.
- b. The person named in ③ who wants contact with the elders or dependent adults.
- c. Name: _____,
conservator of the person estate person and estate
named in ①, appointed by (name of court):

Case No.: _____

- d. Other person legally authorized to make this request (name):

(Show this person's legal authority to make this request on an attached sheet of paper. Write "Attachment 4d—Information About Person Requesting Order" for a title. You may use form MC-025, Attachment.)

5 Contact Information

Contact information for the person asking the court for an order

- a. Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

6 Description of Elders or Dependent Adults

The person or persons named in ① are residents of California and (check a, b, or c):

- a. Are all age 65 or older.
- b. Are all under age 65 and have physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights. (Briefly describe limitations on the attached sheet of paper or form MC-025. Write "Attachment 6b—Description of Elders or Dependent Adults" for a title.)
- c. Include some adults age 65 or older and some are adults under age 65. The adults under age 65 have physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights. (Identify which persons are 65 or older and identify and briefly describe the limitations of those under age 65 on the attached sheet of paper or form MC-025. Write "Attachment 6c—Description of Elders or Dependent Adults" for a title.)

This is not a Court Order.



7 Relationship to Person Alleged to be Preventing Contact

How do the elders or dependent adults know the person in (2)? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7—Relationship to Respondent" for a title.

8 Facts Supporting Order Allowing Contact

The person requesting the order must show that:

- The elders or dependent adults expressly desire contact with the person named in (3);
- The person in (2) has repeatedly prevented that contact;
- The prevention of contact was not in response to an actual or threatened abuse of the elders or dependent adults by the person named in (3); and
- The prevention of contact was not in response to the desire of the elders or dependent adults to not have contact with the person named in (3).

a. Describe the desire of the elders or dependent adults to have contact with the person named in (3) and attach any documentation demonstrating such desire:

Check here if documentation is attached or if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8a—Describe Desire to Contact" for a title.

b. (1) When has the person in (2) prevented the person named in (3) from seeing the elders or dependent adults? (Provide dates or estimated dates):

(2) Describe how the person in (2) has prevented the person named in (3) from seeing the elders or dependent adults.

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b—Describe Prevention" for a title.

This is not a Court Order.



9 Venue

Why are you filing in this county? (Check all that apply):

- a. The person in (2) lives in this county.
b. The person in (2) prevented the person in (3) from seeing the elders or dependent adults in this county.
c. Other (specify):

10 Other Court Cases

a. Has the person in (2) or the person in (3) been involved in another court case with the elders or dependent adults? No Yes (If yes, specify the kind of each case and indicate where and when each was filed):

Table with 4 columns: Kind of Case, Filed in (County/State), Year Filed, Case Number (if known). Rows include Elder or Dependent Adult Abuse, Civil Harassment, Domestic Violence, Divorce, Nullity, Legal Separation, Paternity, Parentage, Child Custody, Eviction, Guardianship, Workplace Violence, Small Claims, Criminal, and Other (specify).

b. Are there any protective or restraining orders now in effect relating to the elders or dependent adults and the person in (2) or the person in (3)? No Yes (If yes, attach a copy if you have one.)

11 Order Allowing Contact

I ask the court to order the person in (2) to allow the person in (3) to contact the elders or dependent adults, with the following terms:

- a. The person in (2) may not prevent the person named in (3) from in-person or remote online or telephonic visits with the elders or dependent adults named in (1).
b. Other terms requested for the order allowing contact (specify):
Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11b—Other Order Terms" for a title.

Horizontal lines for providing additional terms for the order allowing contact.

This is not a Court Order.



12 Request to Give Less Than Five Days' Notice of Hearing

You must have your papers personally served on the person in (2) at least five days before the hearing, unless the court orders a shorter time for service. (Read form EA-200-INFO, What Is "Proof of Personal Service"?, to learn about serving legal papers. Form EA-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be less than five days between service and the hearing, explain why:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12—Request to Give Less Than Five Days' Notice" for a title.

Three horizontal lines for providing an explanation.

13 Lawyer's Fees and Costs

I ask the court to order payment of my lawyer's fees court costs.

The amounts requested are:

Table with 4 columns: Item, Amount, Item, Amount. Includes dollar signs and blank lines for entry.

Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 13—Lawyer's Fees and Costs" for a title.

14 Number of pages attached to this form, if any:

Date:

Lawyer's name (if any)

Lawyer's signature

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

Date:

Type or print your name

Signature of person making this request

Date:

Type or print your name

Signature of person making this request

This is not a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer.

What is a restraining order allowing contact?

If a person repeatedly prevents contact between a person 65 years or older (an elder) or a dependent adult and someone the elder or dependent adult wishes to have to contact with, the court may issue an order allowing contact.

When will the court grant a restraining order allowing contact?

The court will grant a restraining order allowing contact if:

- An elder or dependent adult has a preexisting relationship with and wants to have contact with a specific person;
- Someone is repeatedly preventing the elder or dependent adult from having contact with that specific person; and
- The person preventing contact is not doing so in response to actual or threatened abuse by the person the elder or dependent adult wishes to have contact with.

If you want a restraining order for other abuse, such as physical or financial abuse, read form [EA-100-INFO, Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?](#)

How will the order help me?

The court can order the person preventing contact to stop preventing the contact.

Who can apply for an elder or dependent adult restraining order allowing contact?

In addition to the elder or dependent adult, the following persons may apply for a restraining order allowing contact on behalf of the elder or dependent adult:

- A conservator or trustee of the elder or dependent adult;

- An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney;
- A person appointed as a guardian ad litem for the elder or dependent adult;
- An individual with a preexisting relationship who the elder or dependent adult wishes to have contact with, but is being prevented from doing so; and
- Any other person legally authorized to seek such relief.

How much does it cost?

There is no fee for filing a request for a restraining order. You do not need to pay a fee for service of the order. A sheriff or marshal will serve the order for free. Or you may arrange for service by a registered process server or a private party and pay any fee that is charged. The court can make the person who loses the case pay all the court fees and the lawyer's fee for the other party.

What forms do I need to get the order?

You must fill out all of form [EA-300, Request for Elder or Dependent Adult Restraining Order Allowing Contact](#). If you need attachments, you may use form [MC-025, Attachment](#). You must also fill out items 1 and 2 on form [EA-309, Notice of Court Hearing to Allow Contact](#).

Where can I get these forms?

You can get the forms from legal publishers or on the internet at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

What do I need to do to get the order?

You must go to the superior court in the county where the prevention of contact took place or where the person preventing contact lives. At the court, ask where you should file your request for a restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) At the court, give your forms to the clerk of the court. The clerk will give you a hearing date on the Notice of Court Hearing form.

How soon can I get the order?

Orders to stop preventing a person from seeing an elder or dependent adult can only be issued after a hearing. Accordingly, the date of the hearing is the earliest the order can be granted.

How long does the order last?

The length of the order is determined by the court and could last for up to five years.

How will the person preventing contact know about my request for an order?

Someone age 18 or older—not you or anybody else involved in the case—must “serve” (give) the person to be restrained a copy of the notice of hearing and other forms listed on that notice. The server must then fill out form [EA-200, Proof of Personal Service](#), and give it to you to file with the court. For help with service, ask the court clerk for form [EA-200-INFO, What Is “Proof of Personal Service”?](#)

Do I have to go to court?

Yes. Go to court on the date the clerk gives you, which is found on form [EA-309, Notice of Court Hearing to Allow Contact](#).

Do I need to bring a witness to the court hearing?

Witnesses are not required, but it helps to have more proof of the isolation than just your word. You can bring:

- Witnesses
- Written statements from witnesses made under oath
- Letters, emails

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use form [MC-030, Declaration](#), for this.)

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Can I bring someone with me to court?

Yes. You can bring someone to sit with you during the hearing. But that person cannot speak for you in court. Only you or your lawyer (if you have one) can speak for you.

Can the elder or dependent adult and the person preventing contact agree to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. The person who requested the order or the person preventing contact would have to file a request with the court to cancel the order.

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

For help in your area, contact:

[Local information may be inserted.]

Clerk stamps date here when form is filed.

DRAFT

8/3/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Elders or Dependent Adults

Full Name: _____
Full Name: _____
Full Name: _____

2 Person Alleged to Be Preventing Contact

Full Name: _____

3 Person Who Wants Contact With the Elders or Dependent Adults

Full Name: _____

4 Person Requesting Order

a. Full Name: _____
 Lawyer for person requesting order:
Name: _____
Firm Name: _____

b. Address for the person requesting order *(If you have a lawyer, give your lawyer's information. If you want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

The court will complete the rest of this form.

5 Notice of Hearing

A court hearing is scheduled on the request for restraining order allowing contact against the person in 2:

Hearing Date	→ Date: _____	Time: _____	Name and address of court if different from above: _____ _____ _____
	Dept.: _____	Room: _____	



6 Service of Documents by the Person in 4

At least five _____ days before the hearing, someone age 18 or older—**not you or anybody else involved in the case**—must personally give (serve) a court file-stamped copy of this form EA-309, *Notice of Court Hearing to Allow Contact*, to the person in 2 along with a copy of all the forms indicated below:

- a. EA-300, *Request for Elder or Dependent Adult Restraining Order Allowing Contact* (file-stamped)
- b. EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact* (blank form)
- c. EA-320-INFO, *How Can I Respond to a Request for an Elder or Dependent Adult Restraining Order Allowing Contact?*
- d. EA-250, *Proof of Service of Response by Mail* (blank form)

Date: _____

*Judicial Officer***To the Person in 4 :**

- The court cannot make the restraining order requested unless the person in 2 has been personally given (served) a copy of your request. To show that the person in 2 has been served, the person who served the forms must fill out a proof of service form. Form EA-200, *Proof of Personal Service*, may be used.
- For information about service, read form EA-200-INFO, *What Is “Proof of Personal Service”?*
- If you are unable to serve the person in 2 in time, you may ask for more time to serve the documents. Use form EA-315, *Request to Continue Court Hearing on Request to Allow Contact*.

To the Person in 2 :

- If you want to respond to the request for an order in writing, file form EA-320, *Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact*, and have someone age 18 or older—**not you or anybody else involved in the case**—mail it to the person in 4.
- The person who mailed the form must fill out a proof of service form. Form EA-250, *Proof of Service of Response by Mail*, may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, go to the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may make a restraining order against you that could last up to five years.



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing to Allow Contact* is a true and correct copy of the original on file in the court.

Clerk's Certificate
[seal]

Date: _____

Clerk, by _____, Deputy

**Request to Continue Court Hearing
on Request to Allow Contact**

Clerk stamps date here when form is filed.

DRAFT

8/3/2022

**NOT APPROVED BY THE
JUDICIAL COUNCIL**

Use this form to ask the court to reschedule the court date listed on form EA-309, *Notice of Court Hearing to Allow Contact*. Read form EA-315-INFO, *How to Ask for a New Date for a Hearing to Allow Contact*, for more information.

1 Party Information

a. My name is: _____

b. I am the (*check one of the boxes below*):

(1) Elder or Dependent Adult (*skip to 2*).

(2) Person asking for the order to allow contact
(*name of elders or dependent adults*): _____

(*skip to 2*).

(3) Person alleged to be preventing contact (*provide your information below*)

Address where I can receive mail:

(*This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission. If you have a lawyer, give your lawyer's address and contact information.*)

Address: _____

City: _____ State: _____ Zip: _____

My contact information (*optional*):

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*):

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

2 Information About My Case

a. The other party in this case is (*full name*): _____

b. I have a court date currently scheduled for (*date*): _____

This is not a Court Order.



Case Number: _____

3 Why Does the Court Date Need to Be Rescheduled?

- a. I need more time to have the person alleged to be preventing contact personally served.
- b. I am the person alleged to be preventing contact and this is my first request to reschedule the court date.
- c. Other reason: _____

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

Date: _____

Type or print name of

- Lawyer Party Without Lawyer

Sign your name

This is not a Court Order.

1 You may need to ask for a new court date if:

- You are the person asking for the order and are unable to have *Notice of Court Hearing to Allow Contact* (form EA-309) and other papers served in time before your court date.
- You are the person said to be preventing contact and making your first request to reschedule your court date.
- You have a good reason for needing a new court date. (The court may grant your request to reschedule on a showing of good cause.)

2 What does form EA-315 do?

Use *Request to Continue Court Hearing on Request to Allow Contact* (form [EA-315](#)) to ask the court to reschedule your court date.

3 Follow these steps:

- Fill out all of form [EA-315](#).
- Fill out items **1**, **2**, **3**, and **4** on *Order on Request to Continue Hearing on Request to Allow Contact* (form [EA-316](#)).
- The judge will need to review your papers. In some courts, you must give your papers to the clerk. Ask the court clerk for information on how you ask the judge to review your papers.
- After you turn in your forms as required by your local court, check with the clerk's office to see if the judge approved (granted) your request to reschedule your court date.
- If the judge grants your request, in item 5b of form EA-316, you will have a new court date. If the judge did NOT grant your request, you should go to court at the date, time, and location on form EA-309.
- Next, file both forms EA-315 and EA-316 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to your court date.
- The other party must be served a copy of the court papers as described in item **7** on form EA-316.
- Ask the person who serves the papers to complete a proof of service form and give it to you. If service was in person, use *Proof of Personal Service* (form [EA-200](#)). If service was by mail, use *Proof of Service—Civil* (form [POS-040](#)). Make two copies of the completed forms.
- File the completed and signed proof of service form with the clerk's office before your court date.

4 Go to your court date

- Take at least two copies of your documents and filed forms to your court date. Include a filed proof of service form. "Documents" may include exhibits and declarations, and the court may enter them into evidence at its discretion.
- If you are the person preventing contact and you do not go to the hearing, the court can still make an order against you that can last for up to five years.

5 Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

Clerk stamps date here when form is filed.

DRAFT

8/3/2022

**Not approved by
the Judicial Council**

Complete items ①, ②, ③, and ④ only.

① **Elders or Dependent Adults:** _____

② **Party Alleged to Be Preventing Contact:**

③ **Person Who Wants Contact With the Elders or
Dependent Adults**

④ **Person Requesting Order**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

The court will complete the rest of this form.

⑤ Next Court Date

a. The request to reschedule the court date is **denied**.

Your court date is: _____

Your court date is not rescheduled because: _____

b. The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ⑥–⑨ for more information.

Name and address of court, if different from above:

**New
Court
Date** →

Date: _____ Time: _____

Dept.: _____ Room: _____

⑥ Reason Court Date Is Rescheduled

a. There is good cause to reschedule the court date (*check one*):

(1) The party requesting the order has not served the party preventing contact.

(2) Other: _____

b. This is the first time that the party alleged to be preventing contact has asked for more time to prepare.

c. The court reschedules the court date on its own motion.

This is a Court Order.



7 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Party Requesting Order**

b. **Party Alleged to be Preventing Contact**

c. **Court**

(1) You do not have to serve the party alleged to be preventing contact because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the party alleged to be preventing contact personally served with a copy of this order and a copy of all documents listed on form EA-309, item **6**, by (date): _____

(3) You must have the party alleged to be preventing contact served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) Other: _____

(1) You do not have to serve the party requesting contact because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the party requesting contact personally served with a copy of this order by (date): _____

(3) You must have the party requesting contact served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) Other: _____

(1) Further notice is not required.

(2) The court will mail a copy of this order to all parties by (date): _____

(3) Other: _____

This is a Court Order.



8 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

9 Other Orders

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request (form MC-410)*. (Civ. Code, § 54.8.)

—Clerk's Certificate—

Clerk’s Certificate

I certify that this *Order on Request to Continue Hearing on Request to Allow Contact* is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Response to Request for Elder or Dependent Adult Restraining Order Allowing Contact

Clerk stamps date here when form is filed.

DRAFT

8/3/2022

Not approved by the Judicial Council

Use this form to respond to the Request (form EA-300)

- Read *How Can I Respond to a Request for an Elder or Dependent Adult Restraining Order Allowing Contact?* (form EA-320-INFO) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you or anybody else involved in the case**—serve the person or persons listed in ① by mail with a copy of this form and any attached pages. (*Use form EA-250, Proof of Service of Response by Mail.*)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Elders or Dependent Adults

Names: _____

② Person Alleged to Be Preventing Contact

a. Your Name: _____

Your Lawyer (*if you have one for this case*)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.*)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form EA-309, item ⑤, here:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

At the hearing, the court may make an order against you that last for up to five years.

③ Person Who Wants Contact With the Elders or Dependent Adults

Name: _____

④ Person Requesting Order

Name: _____

⑤ Order Allowing Contact

a. I agree to the order requested.

b. I do not agree to the order requested. (*Specify why you disagree in items ⑦ and ⑧ on page 2.*)

⑥ Denial

I did not do anything I was accused of in item ⑧ of form EA-300. (*Skip to ⑧.*)



9 **Lawyer's Fees and Costs**

a. I ask the court to order payment of my lawyer's fees court costs. The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper and write "Attachment 9—Lawyer's Fees and Costs" for a title. You may use form MC-025, Attachment.

b. I ask the court to deny the request of the person asking for the order named in **4** that I pay their lawyer's fees and costs.

10 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

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

Date: _____

Type or print your name

Sign your name

What is a restraining order allowing contact?

It is a court order that prohibits you from preventing an elder or dependent adult from having contact with someone the elder or dependent wishes to have contact with.

Who can ask for a restraining order allowing contact?

If you are preventing an elder or dependent adult from having contact with a person that the elder or dependent adult wishes to have contact with, the following people can ask for a restraining order:

- The elder or dependent adult;
- The person that the elder or dependent adult is being prevented from seeing; *or*
- A conservator, attorney-in-fact, or person appointed as guardian ad litem for the elder or dependent adult.

I've been served with a request for elder or dependent adult restraining order allowing contact. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* (form EA-309) tells you when to appear in court.

What if I don't agree with what the request says?

If you disagree with the order the person is asking for, fill out form [EA-320, Response to Request for Elder and Dependent Adult Restraining Order Allowing Contact](#), before your hearing date and file it with the court. If you need to include attachments, you can use form [MC-025, Attachment](#). You can get forms from legal publishers or on the internet at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.

DRAFT**8/3/2022****Not approved by
the Judicial Council****Do I have to serve the other parties with a copy of my response?**

Yes. Have someone age 18 or older—**not you or anybody else involved in the case**—mail a copy of completed form EA-320 to the other parties in the case (or their lawyers). (This is called “service by mail.”)

The person who serves the form by mail must fill out form [EA-250, Proof of Service of Response by Mail](#). Have the person who did the mailing sign the original. Take a completed form back to the court clerk or bring it with you to the hearing.

Should I go to the court hearing?

Yes. You should go to court on the date listed on form EA-309, *Notice of Court Hearing to Allow Contact*. If you do not go to the hearing, the judge can make an order against you without hearing from you.

How long does the order last?

The length of the order is determined by the court and could last for up to five years.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

Will I see the person who asked for the order at the court hearing?

Yes. Assume that the person who is asking for the order will attend the hearing. Do not talk to that person unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. You can use form [MC-030, Declaration](#), for this.



Can I agree with the elder or dependent adult to cancel the order?

No. Once the order is issued, only the judge can change or cancel it. You or the person who requested the order would have to file a request with the court to cancel the order.

For help in your area, contact:

[Local information may be inserted.]

What if I don't speak English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form [INT-300, Request for Interpreter \(Civil\)](#), or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form [MC-410, Disability Accommodation Request](#), to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form [MC-410-INFO, How to Request a Disability Accommodation for Court](#).

Clerk stamps date here when form is filed.

DRAFT

8/12/2022

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the Judicial Council**

Person in ④ must complete items ①, ②, ③, and ④ only.

① Elders or Dependent Adults

Full Names: _____

② Person Preventing Contact

Full Name: _____

③ Person Who Wants Contact With the Elders or Dependent Adults

Full Name: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

④ Person Requesting Order

a. Full Name: _____

Lawyer for person requesting order (if any for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

⑤ Expiration Date

This Order, except for any award of lawyer's fees, expires at

Time: _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires three years from the date of issuance.

This is a Court Order.



6 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
 - (1) The elders or dependent adults to receive contact
 - (2) The lawyer for the elders or dependent adults *(name)*: _____
 - (3) The person in ④ requesting the order
 - (4) The lawyer for the person in ④ requesting the order *(name)*: _____
 - (5) The person in ②
 - (6) The lawyer for the person in ② *(name)*: _____
 - Additional persons present are listed at the end of this Order on Attachment 6.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

7 Order Allowing Contact

- a. You may not prevent the person in ③ from in-person or remote online or telephonic visits with the elders or dependent adults in ①.
- b. Other terms of order allowing contact *(specify)*:

8 Other Orders *(specify)*:

Additional orders are attached at the end of this Order on Attachment 8.

This is a Court Order.



9 **Lawyer's Fees and Costs**

You must pay to the person who requested the order the following amounts for lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 9.

To the Person in 4 :

10 **Service of Order**

- a. The person in 2 personally attended the hearing. No other proof of service is needed.
- b. The person in 2 was not at the hearing. Someone—but not anyone in 1 or 4—must personally serve a copy of this Order on the person in 2.

11 **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, they will do so for free.

12 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order or is shown a copy of the order. If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 3. The order *ends* on the expiration date in item 5 on page 1.

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person “served” (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was informed of the order by an officer.

If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO)*: If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order*: If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO)*: If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders*: If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Elder or Dependent Adult Restraining Order Allowing Contact After Hearing* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
1.	Open Arms And Loving Hands by Nedra Jones Inglewood	AM	*[The comment addresses the details of a specific case and does not address any of the issues in the proposal and is not included in the comment chart.]	No response is required.
2.	Orange County Bar Association by Daniel S. Robinson President	AM	<p>This proposal contains four distinct recommendations for Judicial Council action: (1) the adoption and approval of a new series of forms to implement the legislative amendments in AB 1243 regarding a new cause of action for a restraining order allowing contact with an elder or dependent adult; (2) the revision of elder abuse forms regarding service of documents to accommodate the new series of forms in the first recommendation; (3) the revision of several elder abuse forms to implement the legislative amendments in AB 1243 regarding the new permissible findings that specific debts were incurred by financial abuse; and (4) revisions to existing elder abuse information sheets and orders to update information about interpreters, disability and court accommodations, and the priority of enforcement among protective orders.</p> <p>Generally, the proposed new forms and revisions to existing forms would properly implement the changes required by AB 1243, though we recommend the following modifications:</p> <p>1. On form EA-300, list the name of the elder (or dependent adult) first. (See reasons at the response to Question 2, below).</p>	<p>The committee appreciates the information provided.</p> <hr/> <p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-300.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>2. On form EA-309, list the name of the elder (or dependent adult) first. (See reasons at the response to Question 4, below).</p>	<p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-309.</p>
			<p>Question 1. Does the proposal appropriately address the stated purpose?</p> <p>Response to Question 1: Yes.</p>	<p>The committee appreciates the information provided.</p>
			<p>Question 2. Is the organization of items 1 through 4 in form EA-300 appropriate, or should the elder or dependent adult always be listed first?</p> <p>Response to Question 2: The elder (or dependent adult) should be listed first. The interests of the elder (or dependent adult) should be considered first and listing the elder (or dependent adult) first will promote that consideration. The E-filing clerk, at least in Orange County, upon case initiation, in processing the filed pleadings/forms, typically lists the name of the elder (or dependent adult), followed by the case category (“elder abuse”). Subordinating the elder’s name down the form could cause the Court and parties to detract from the fundamental principle that the elder (or dependent adult) comes first. Having the elder’s name at the top of the form should, at the least, reduce the chances of mistakes by the clerk upon case initiation as cases are identified by the elder’s name.</p>	<p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-300.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Question 3. Courts are permitted to shorten the time for service of the petition and notice of hearing. Item 12 in form EA-300 allows petitioner to make such a request but given that the court cannot issue a temporary restraining order it is unclear when the court would rule on such a request. Is item 12 on form EA-300 appropriate or should the committee develop an alternative means for petitioners to seek authority to provide less than five days' notice for future consideration?</p> <p>Response to Question 3: Item 12 is appropriate as written.</p> <p>Question 4. Is the organization of Item 1 in form EA-309 appropriate, or should the elder or dependent adult always be listed first?</p> <p>Response to Question 4: For the same reasons the elder (or dependent adult) should be listed first on the Request form (EA-300) [see Response to Question 2, above], the elder (or dependent adult) should be listed first on the Notice of Hearing (EA-309).</p> <p>Question 5. Given the concerns about when a court would rule on a request to shorten time, is it appropriate that item 4 on form EA-309 states that service must be performed at least five days before the hearing?</p>	<p>In light of this and other comments, Item 12 on form EA-300 has been retained.</p> <p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-309.</p> <p>In light of this and other comments received, an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>Response to Question 5. Yes. That is appropriate because it is the general rule. It would also be appropriate to add this phrase at the start (prior to “At least five days before the hearing...”): “Subject to a Court’s Order shortening the amount of time between service and the hearing date....”</p>	
3.	<p>Superior Court of Los Angeles County by Bryan Borys</p>	A	<p>Regarding SPR22-21: Elder abuse forms</p> <p>Is the organization of items 1 through 4 in form EA-300 appropriate, or should the elder or dependent adult always be listed first? On EA-300, recommend order to mimic the logic of the EA-100, ie. #1 elder or dependent adult to receive contact #2 person preventing contact #3 person requesting order #4 person who wants to have contact with the elder or dependent adult.</p> <p>Courts are permitted to shorten the time for service of the petition and notice of hearing. Item 12 in form EA-300 allows petitioner to make such a request but given that the court cannot issue a temporary restraining order it is unclear when the court would rule on such a request. Is item 12 on form EA-300 appropriate or should the committee develop an alternative means for petitioners to seek authority to provide less than five days’ notice for future consideration?</p>	<p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-300. However, the form includes the person wanting contact with the elder or dependent adult as item 3 and the person requesting the order as item 4 because the person requesting the order may be the person wanting contact.</p> <p>In light of this and other comments received, item 12 on form EA-300 has been retained and an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>Clarification is needed: Is it possible to serve the EA-309 with a shortened setting date if item #12 allowing less than 5 days’ notice is requested. This process works if we can use the same form and just set on shortened notice for service.</p> <p>Is the organization of item 1 in form EA-309 appropriate, or should the elder or dependent adult always be listed first? Yes, elder should be listed first.</p> <p>Given the concerns about when a court would rule on a request to shorten time, it is appropriate that item 4 on form EA-309 states that service must be performed at least five days before the hearing? Could add that, unless otherwise ordered on #4, specifying 5-day notice before the hearing date; or add a specific checkbox here if hearing is set on shortened notice to specify the notice order.</p>	<p>In light of this and other comments received, the name of the elder or dependent adult is listed first on form EA-309.</p> <p>In light of this and other comments received, an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>
4.	Superior Court of Orange County by Sean E. Lillywhite Training & Analyst Group	NI	<p>The forms as proposed contain some issues or inconsistencies as noted below. (Please note that additional comments regarding the EA-300 and EA-309 are detailed in the section addressing the Request for Specific Comments):</p> <p>EA-300 series - The parties are referred to as “The Elder or Dependent Adult to Receive Contact” and the “Person Preventing Contact.” These titles suggest implicit bias on the part of the court. I think they should be changed to “The Elder or Dependent Adult Requesting Contact” and the</p>	<p>The committee appreciates the information provided.</p> <p>In light of this comment, the EA-300 form series refers to “Elder or Dependent Adults” as opposed to “Elder or Dependent Adults to Receive Contact” and refers to the “person alleged to be preventing contact” instead of “person preventing contact.” However, “person preventing contact” is</p>

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SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>“Respondent” or “Responding Party.” If necessary, an explanation could be given within the forms to define the “Responding Party” as the one accused of preventing contact. The original terminology chosen presumes that the responding party is already guilty of preventing contact, and also that the Court will rule in favor of contact being allowed to the Elder or Dependent Adult when technically, the case could result in the Court finding that the actions of the Responding Party were in the best interest of the Elder or Dependent Adult, and that they were acting in their best interest as the person’s conservator or legal representative.</p>	<p>used on the order form (EA-330) because if the order is being issued the court will have found the person to be preventing contact. The committee did not use “Respondent” or “Responding Party” because the terms are not plain language and may confuse litigants.</p>
			<p>EA-120 - #13 is titled “Justification or Excuse.” This wording seems to carry bias in favor of the petitioner. The word “excuse” carries a negative moral implication as seen in the common phrase “Don’t make excuses.” I recommend that the item be changed to “Justification” or “Justification or Explanation.”</p>	<p>The committee declines this suggestion to the extent it applies to proposed form EA-320 because “excuse” is widely used across the form sets, and such a revision is outside the scope of this proposal. To the extent this suggestion applies to form EA-120, the committee will consider it in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>EA-200, Page 1 – The first paragraph is confusing and could lead filing parties to conclude that an EA-300 is supposed to be filed with an EA-200. I recommend changing the paragraph as follows: <i>Many restraining order forms cannot be served by mail. Service is the act of giving your legal papers to the other party. There are many kinds of service—in person, by mail, and others.</i></p>	<p>In light of this comment, the first paragraph of EA-200-INFO was rewritten to list the types of restraining order forms that cannot be served by mail following a colon.</p>

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SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p><i>This form is about personal or “in-person service.” The following types of restraining order forms cannot be served by mail: Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-100), the Notice of Court Hearing (form EA-109), Temporary Restraining Order (form EA-110), Request for Elder or Dependent Adult Restraining Order Allowing Contact (form EA-300) and Notice of Court Hearing to Allow Contact (form EA-309) must be served “in person.” That means that someone must personally “serve” (give) a copy of the forms to the person to be restrained.</i></p> <p>EA-300, Page 1 – The introduction at the top of the page needs an extra bullet clarifying that it is not to be used if a restraining order for abuse is also being requested against the Responding Party. The following language could be pulled from the EA-300 INFO and inserted as follows: <i>If you want a restraining order for other abuse, such as physical or financial abuse, read form EA-100- INFO, Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?</i></p> <p>EA-320, Page 2 – #5 is titled “Justification or Excuse.” This wording seems to carry bias in favor of the petitioner. The word “excuse” carries a negative moral implication as seen in the common phrase “Don’t make excuses.” I recommend that the item be changed to “Justification” or “Justification or Explanation.”</p>	<p></p> <p>In light of this comment, an additional bullet directing litigants to the EA-100 series was added to the top of form EA-300.</p> <p>The committee declines this suggestion as “excuse” is widely used across the form sets, and such a revision is outside the scope of this proposal.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>Impact <i>Training Requirement(s):</i> These changes will necessitate approximately 1 hour of training for all probate court clerks and 1 hour of training for all case processing staff. Training will be needed specifically to address the processing of the new EA-300 series of forms in the clerk’s office and in the courtroom. I would expect the training team to utilize a full 40 - 80 hours of time (possibly 2 weeks total) to write new procedures, implement new Voyager docket codes, prepare the training materials and resources, conduct the training and any follow-up, etc.</p> <p><i>Affected Third Parties:</i> In addition to courtroom operations and case processing, the judicial officers, self-help, the Domestic Violence Assistance Program and the Protective Order Unit will all be impacted. Coordination will be required with each stakeholder to seamlessly implement the new forms.</p> <p>-Judicial Officers – Input will be needed from the judicial officers regarding preferences for calendar preparation. Extra steps are entailed in this area for the restraining order calendars, and we will need to check if this will also be needed for new EA-300 series.</p> <p>Self-Help – Self-Help provides restraining order packets and information to parties upon request. They will need to be prepared with the new EA-300 series of forms.</p>	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>Domestic Violence Assistance Program (DVAP) – Currently, this program transmits EA restraining order requests to our court electronically when parties file at LJC (Family/Juvenile courthouse). We will need to determine whether this will also be done with the new series of EA- 300 forms.</p> <p>Protective Order Unit (POU) – The new EA-300 forms are unique in that they do not get transmitted to CLETS. The POU will need to be instructed <i>not</i> to process EA-300 forms if any are inadvertently sent to them.</p> <p><i>Filing Types/Docket Codes:</i> New Filing Types will need to be created in the case management system for each of the EA-300 forms (excluding the ones titled INFO). A new event type will be needed for the hearing on the EA-300 request. New Minute Order Capture (MOCS) codes will also need to be created for rulings on the EA-300 requests.</p> <p><i>Affected Procedures:</i> Minor revisions will need to be made to the current courtroom and case processing procedures for Elder Abuse, to address the changes to the EA-100 series adding the terms <i>gender</i> and <i>non-binary</i> to the forms and also for the new section addressing any debts incurred as a result of financial abuse. New case processing and courtroom procedures will also need to be created to address the EA-300 series of forms.</p> <p>Other</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>Request for Specific Comments 1. Does the proposal appropriately address the stated purpose? <i>Response: Yes</i></p>	<p>The committee appreciates the information provided.</p>
			<p>2. Is the organization of items 1 through 4 in form EA-300 appropriate, or should the elder or dependent adult always be listed first? <i>Response: I think it is appropriate and will not cause confusion.</i></p>	<p>In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-300.</p>
			<p>3. Courts are permitted to shorten the time for service of the petition and notice of hearing. Item 12 in form EA-300 allows petitioner to make such a request but given that the court cannot issue a temporary restraining order it is unclear when the court would rule on such a request. Is item 12 on form EA-300 appropriate or should the committee develop an alternative means for petitioners to seek authority to provide less than five days' notice for future consideration? <i>Response: I think that Item 12 should be revised to reference the EA-309, Notice of Court Hearing to Allow Contact, and indicate that the judicial officer will designate time for service in #4 of that form. Even though TRO hearings are not held for an EA-300 case, the series of forms still presumes that the Court will issue the EA-309 (it requires a judicial signature). The EA-309 should be revised to include a checkbox in number 4, indicating whether the judicial officer</i></p>	<p>In light of this and other comments received, item 12 on form EA-300 has been retained and an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309. The committee declines to add an instruction to form EA-300 referencing form EA-309, as form EA-200-INFO already references form EA-309 to determine the date in which service must be completed.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p><i>allows the documents to be served in less than 5 days. This way, when petitioners file their EA-300, case processing staff will return a conformed copy along with an executed EA-309 designating the hearing date and required days for service in Item 4.</i></p>	
			<p>4. Is the organization of item 1 in form EA-309 appropriate, or should the elder or dependent adult always be listed first? <i>Response: I think it is appropriate.</i></p>	<p>In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-309.</p>
			<p>5. Given the concerns about when a court would rule on a request to shorten time, it is appropriate that item 4 on form EA-309 states that service must be performed at least five days before the hearing? <i>Response: Please see my remarks in item 3 above. I think this form should be revised to include an additional checkbox where the judicial officer can designate a time for shortened notice. This form should be issued to petitioners with a conformed copy of the EA-300 at the time of case initiation.</i></p>	<p>In light of this and other comments received, item 12 on form EA-300 has been retained and an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>
			<p>6. Would the proposal provide cost savings? If so, please quantify. <i>Response: I don't think the proposal will provide cost saving.</i></p>	<p>The committee appreciates the information provided.</p>
			<p>7. What are the implementation requirements for courts? For example, training staff (please identify</p>	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management system, or modifying case management system.</p> <p>Response: Training Requirement(s): These changes will necessitate approximately 1 hour of training for all probate court clerks and 1 hour of training for all case processing staff. Training will be needed specifically to address the processing of the new EA-300 series of forms in the clerk’s office and in the courtroom. I would expect the training team to utilize a full 40 - 80 hours of time (possibly 2 weeks total) to write new procedures, implement new Voyager docket codes, prepare the training materials and resources, conduct the training and any follow-up, etc.</p> <p>-Filing Types/Docket Codes: New Filing Types will need to be created for each of the EA-300 forms (excluding the ones titled INFO). A new event type will be needed for the hearing on the EA-300 request. New MOCS codes will also need to be created for rulings on the EA-300 requests.</p> <p>-Affected Procedures: Minor revisions will need to be made to the current courtroom and case processing procedures for Elder Abuse, to address the changes to the EA-100 series adding the terms <i>gender</i> and <i>non-binary</i> to the forms and also for the new section addressing any debts incurred as a result of financial abuse. New case processing and</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>courtroom procedures will also need to be created to address the EA-300 series of forms.</p> <p>8. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <i>Response: Yes</i></p> <p>9. How well would this proposal work in courts of different sizes? <i>Response: I think courts of different sizes should be able to implement this proposal with relative ease. The changes to the existing EA-100 forms are very minor and the implementation of the EA-300 series should mirror processes already in place for the EA-100 series.</i></p>	<p>The committee appreciates the information provided.</p>
5.	Superior Court of San Bernardino County	NI	<p>SPR22-21 – Protective Orders: Elder Abuse Forms Implementing Assembly Bill 1243 Summary: The Civil and Small Claims Advisory Committee recommends the adoption, approval, and revision of 18 forms to implement statutory changes in Assembly Bill 1243 (Stats. 2021, ch. 273) and to make other necessary changes to accurately reflect current law. AB 1243 make two substantial changes to the laws governing protective orders for elder or dependent adults. First, it creates a new cause of action whereby an order can be issued allowing contact between an elder or dependent adult and an individual who meets certain statutory requirements. Second, the bill allows courts to</p>	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>issue findings related to specific debts incurred as the result of financial abuse of an elder or dependent adult. The proposal incorporates these new provisions into the council’s elder abuse forms and makes other minor updates to those forms.</p> <p>Request for Specific Comments in addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <p>Does the proposal appropriately address the stated purpose? Yes</p>	
			<p>Is the organization of items 1 through 4 in form EA-300 appropriate, or should the elder or dependent adult always be listed first? It think its fine</p>	<p>In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-300.</p>
			<p>Courts are permitted to shorten the time for service of the petition and notice of hearing. Item 12 in form EA-300 allows petitioner to make such a request but given that the court cannot issue a temporary restraining order it is unclear when the court would rule on such a request. Is item 12 on form EA-300 appropriate or should the committee develop an alternative means for petitioners to seek authority to provide less than five days’ notice for future consideration? It seems like this would need judicial approval if there was a temporary order. Since there is not, I think this</p>	<p>In light of this and other comments received, item 12 on form EA-300 has been retained.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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	Commenter	Position	Comment	DRAFT Committee Response
			<p>number is fine and it would be up to the judicial officer at the hearing to determine if notice was given appropriately.</p>	
			<p>Is the organization of item 1 in form EA-309 appropriate, or should the elder or dependent adult always be listed first? I think it is fine</p>	<p>In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-309.</p>
			<p>Given the concerns about when a court would rule on a request to shorten time, it is appropriate that item 4 on form EA-309 states that service must be performed at least five days before the hearing? Add a line that says unless request to short time was granted or something like that.</p>	<p>In light of this and other comments received, item 12 on form EA-300 has been retained and an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>
			<p>The advisory committee [or other proponent] also seeks comments from courts on the following cost and implementation matters: Would the proposal provide cost savings? If so, please quantify. No 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? New procedures, training, update case management system</p>	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes How well would this proposal work in courts of different sizes?	
6.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	Does the proposal appropriately address the stated purpose? Yes.	The committee appreciates the information provided.
			Is the organization of items 1 through 4 in form EA-300 appropriate, or should the elder or dependent adult always be listed first? Yes. The proposed organization is appropriate.	In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-300.
			Courts are permitted to shorten the time for service of the petition and notice of hearing. Item 12 in form EA-300 allows petitioner to make such a request but given that the court cannot issue a temporary restraining order it is unclear when the court would rule on such a request. Is item 12 on form EA-300 appropriate or should the committee develop an alternative means for petitioners to seek authority to provide less than five days' notice for future consideration? An alternative process for petitioners to request an order shortening time for service, and for courts to rule on such requests prior	In light of other comments received, item 12 on form EA-300 has been retained. The committee declines to create an alternative process to request an order shortening time for service as the request on form EA-300 and the court response on EA-309 are sufficient.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>to the hearing on the petition, would be preferred.</p>	
			<p>Is the organization of item 1 in form EA-309 appropriate, or should the elder or dependent adult always be listed first? Yes. The proposed organization is appropriate.</p>	<p>In light of other comments received and because Welfare and Institutions Code, section 15657.03(a) only permits petitions to be brought on behalf of an elder or dependent adult, the committee concluded it is appropriate to list the elder or dependent adult first on form EA-309.</p>
			<p>Given the concerns about when a court would rule on a request to shorten time, is it appropriate that item 4 on form EA-309 state that service must be performed at least five days before the hearing? If item 12 on EA-300 remains, it is proposed that item 4 on EA-309 provide an option for the court to shorten time for service similar to item 5 on form EA-109.</p>	<p>In light of this and other comments received, an option for the court to specify a different amount of days prior to the hearing for service to be completed has been added to form EA-309.</p>
			<p>Would the proposal provide cost savings? If so, please quantify. No. 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?</p>	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Updating/creating internal procedures, updating/creating new local packets, and training staff. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, if the final versions of the forms are provided to the court by that time. This will ensure that the court is able to provide training to staff, modify local packets, obtain printed stock, and create new internal procedures for EA-300. How well would this proposal work in courts of different sizes? It appears that the proposal would work for courts of all sizes.</p>	
			<p>OTHER COMMENTS: EA-110: Item 8 No Guns or Other Firearms and Ammunition: 8b(1) and (2): Propose that “ammunition” be added to the items that are to be sold or stored and for which a receipt must be filed. As written, it does not appear that the restrained party has to sell/store or file receipt with the court. In the alternative renumber and organize item similar to proposed DV-110 included in SPR22-20.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>8c: Propose that “ammunition” be added.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Warnings and Notices to Restrained Person in 2 (Page 5): o Possession of Guns or Firearms: Propose changing to “Possession of Guns or Other Firearms and Ammunition” to be consistent with item 8.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>EA-120: Item 8 No Guns or Other Firearms and Ammunition: 8c: Propose that “ammunition” be added.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>EA-120-INFO: What if I have a gun?: Propose that “ammunition” be added to the second sentence. As written, it does not appear that the restrained party has to sell/store or file receipt with the court.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>EA-130: Item 10 No Guns or Other Firearms and Ammunition: 10b(1) and (2): Propose that “ammunition” be added to the items that are to be sold or stored and for which a receipt must be filed. As written, it does not appear that the restrained party has to sell/store or file receipt with the court. In the alternative renumber and organize item similar to proposed DV-110 included in SPR22-20.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>10c: Propose that “ammunition” be added.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Warnings and Notices to Restrained Person in 2 (Page 6): You Cannot Have Guns or Firearms: Propose changing to “You Cannot Have Guns or Other Firearms and Ammunition” to be consistent with item 10.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>Propose adding “ammunition” to the [third] sentence.</p>	<p>The committee will consider this suggestion in the separate forthcoming proposal revising forms in the EA-100 series.</p>
			<p>EA-316: Item 1 Party Requesting Order to Allow Contact: Propose changing to “Person Requesting Order” to be consistent with other EA-300 series forms.</p>	<p>The committee declines this suggestion to maintain consistency with other forms. The order forms granting a continuance of a hearing on a civil restraining order use “party” because only a party may request a continuance.</p>
			<p>Item 2 Party Preventing Contact: Propose changing to “Person Preventing Contact” to be consistent with other EA-300 series forms.</p>	<p>The committee declines this suggestion to maintain consistency with other forms. The order forms granting a continuance of a hearing on a civil restraining order use “party” because only a party may request a continuance.</p>
			<p>Item 4 Reasons Court Date is Rescheduled: o 4a(2): Propose replacing references to “party” with “person” to be consistent with other EA-300 series forms.</p>	<p>The committee declines this suggestion to maintain consistency with other forms. The order forms granting a continuance of a hearing on a civil restraining order use “party” because only a party may request a continuance.</p>
			<p>4b: Propose replacing references to “party” with “person” to be consistent with other EA-300 series forms.</p>	<p>The committee declines this suggestion to maintain consistency with other forms. The order forms granting a continuance of a hearing on a civil restraining order use “party” because only a party may request a continuance.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Item 5 Serving (Giving) Order to Other Party: Propose replacing all references to “party” with “persons” to be consistent with other EA-300 series forms.</p>	<p>The committee declines this suggestion to maintain consistency with other forms. The order forms granting a continuance of a hearing on a civil restraining order use “party” because only a party may request a continuance.</p>
7.	<p>Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee</p>	NI	<p>JRS Position: Agree with proposed changes if modified.</p> <p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> • Significant fiscal impact. <ul style="list-style-type: none"> ○ Normally, there is no cost to serve a restraining order. Assuming that “Elder or Dependent Adult Order Allowing Contact” is treated like other restraining orders, there will be no cost to the petitioner. • Impact on existing automated systems. <ul style="list-style-type: none"> ○ Changes would have to be made to all court case management systems to create a new case category for the new cause of action of “Elder or dependent adult order allowing contact”. New parties would have to be added that are created by the 	<p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>cause of action such as the elder or dependent adult party “receiving contact” and the interested party wanting contact with the elder or dependent adult.</p> <ul style="list-style-type: none"> • Results in additional training, which requires the commitment of staff time and court resources. <ul style="list-style-type: none"> ○ There would be a need for a moderate level of training for all court legal processing staff, family law facilitators and probate/guardianship investigators • Impact on local or statewide justice partners <ul style="list-style-type: none"> ○ There would be minimal impact on County Counsel offices who provide representation in guardianship cases. <p>Suggested modification(s):</p> <p>The EA – 300 form series uses the term “Elder or Dependent Adult Restraining Order Allowing Contact” in the title of the forms. Recommend that the EA-300 form series use the term “Protective Order Allowing Elder or Dependent Adult Contact” instead of “Elder or Dependent Adult Restraining Order Allowing Contact”. AB 1243</p>	<p>The committee declines this suggestion as all civil protective orders are referred to as “restraining orders” (e.g., “Civil Harassment Restraining Order,” “Domestic Violence Restraining Order,” etc.). Additionally, Welfare and Institutions Code, section 15657.03(b)(5)(E) (the relevant section discussing the new cause of action) provides that “an order may be issued . . . to <i>restrain</i> the</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-21

Protective Orders: Elder Abuse Forms Implementing New Cause of Action Allowing Contact (Adopt forms EA-300, EA-309, EA-315, EA-316, EA-320, and EA-330; approve forms EA-300-INFO, EA-315-INFO, and EA-320-INFO; revise forms EA-200, EA-200-INFO, and EA-250)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>created a new type of protective order with unique findings. The “Allowing Contact” protective order is so distinct from normal restraining orders that the summary states it is not to be entered into CLETS and would probably not be entered into CCPOR. Using the term “Restraining Order” in the EA-300 form series may cause confusion among court staff and parties seeking to use the protective order. Using the term “Protective Order” is a more accurate description of the new cause of action created by AB 1243. The language of WIC Section 15657.03 as amended by AB 1243 uses the term “Protective Order” as the general defining term for the orders authorized under WIC Section 15657.03.</p>	<p>respondent for the purpose of preventing a recurrence of isolation.” (emphasis added)</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: August 23, 2022

Rules Committee action requested [Choose from drop down menu below]:

Recommend JC approval (has circulated for comment)

Title of proposal: Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms

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

Revise forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-116, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, GV-730, GV-800, and GV-800-INFO

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): November 2, 2021; amended November 16, 2021, March 21, 2022 and April 6, 2022

Project description from annual agenda: : Develop form recommendations as appropriate. SB 538 permits parties and witnesses to appear remotely at hearings on petitions for gun violence restraining orders. AB 1057 redefines "firearms" to include certain firearm parts for the purposes of gun violence restraining orders. The current gun violence restraining order forms must be revised to conform to the new laws.

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

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

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

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

This proposal:

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

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-175

For business meeting on September 19–20, 2022

Title

Protective Orders: Gun Violence Forms
Implementing Statutory Amendments
Permitting Remote Appearances and
Modifying the Definition of Firearms

Rules, Forms, Standards, or Statutes Affected

Revise forms EPO-002, GV-009, GV-020,
GV-020-INFO, GV-030, GV-100,
GV-100-INFO, GV-109, GV-110, GV-116,
GV-120, GV-120-INFO, GV-125, GV-130,
GV-710, GV-730, GV-800, and
GV-800-INFO

Recommended by

Civil and Small Claims Advisory Committee
Hon. Tamara Wood, Chair

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Date of Report

August 10, 2022

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends the revision of 18 of the Judicial Council's gun violence restraining order forms to implement statutory changes in Senate Bill 538 (Stats. 2021, ch. 686), and Assembly Bill 1621 (Stats. 2022, ch. 76). Assembly Bill 1621 amends the definition of "firearms" for the purpose of gun violence restraining orders to include certain firearm parts. Senate Bill 538 permits parties and witnesses to attend hearings on gun violence restraining orders remotely. The proposal incorporates these new provisions into the council's forms and makes other minor changes to gun violence protective order forms.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the following forms, effective January 1, 2023:

- *Gun Violence Emergency Protective Order* (form EPO-002);
- *Notice of Court Hearing* (form GV-009);
- *Response to Gun Violence Emergency Protective Order* (form GV-020);
- *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO);
- *Gun Violence Restraining Order After Hearing on EPO-002* (form GV-030);
- *Petition for Gun Violence Restraining Order* (form GV-100);
- *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO);
- *Notice of Court Hearing* (form GV-109);
- *Temporary Gun Violence Restraining Order* (form GV-110);
- *Order on Request to Continue Hearing* (form GV-116);
- *Response to Petition for Gun Violence Restraining Order* (form GV-120);
- *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO);
- *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125);
- *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (GV-130);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710);
- *Order on Request to Renew Gun Violence Restraining Order* (form GV-730);
- *Proof of Firearms, Ammunition, and Magazines Turned In, Sold, or Stored* (GV-800), retitled *Receipt for Firearms, Firearms Parts, Ammunition, and Magazines*; and
- *How Do I Turn In, Sell, or Store My Firearms, Ammunition, or Magazines?* (form GV-800-INFO), retitled *How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?*

The proposed new and revised forms are attached at pages 9–58.

Relevant Previous Council Action

Under the Penal Code, the Judicial Council must provide forms and instructions for use in gun violence restraining order matters. The forms have been revised when changes to the law required revisions and in response to suggestions from the public, judicial officers, and court professionals. The last substantive change to gun violence restraining order forms came in 2020 when the council revised these forms to implement legislation relating to who may file a petition requesting a gun violence restraining order, the duration of a gun violence restraining order, and the voluntary relinquishment of firearms by a person subject to a gun violence restraining order.

Analysis/Rationale

The Legislature enacted three bills that significantly amended the statutory provisions governing gun violence restraining orders.

Effective June 30, 2022, AB 1621 (Stats. 2022, ch. 76)¹ adds a definition of “firearm” for the purposes of gun violence restraining orders that includes firearm parts, specifically receivers, frames, and “firearm precursor parts” as defined under Penal Code section 16531(a).² The statutory amendment is intended to include “ghost guns” (unserialized and untraceable firearms that can be bought online and assembled at home) in the items that restrained people cannot possess and must surrender. (See, e.g., Assem. Com. On Public Safety Rep. on Assem. Bill No. 1621 (2021-2022 Reg. Sess.) as amended March 24, 2022 pp. 5-7.) This means that a restrained person may not have these parts or homemade firearms, for the duration of the order. AB 1621 was enacted as an urgency statute, and therefore went into effective immediately upon approval by the Governor on June 30, 2022. AB 1621 superseded AB 1057 (Stats. 2021, ch. 682),³ which would have also added firearm parts to the definition of firearm under the Penal Code. A proposal to implement AB 1057 was included as part of this proposal that was released for public comment on April 8, 2022. The committees believe that the same changes to the forms needed to implement AB 1057 would be appropriate to implement AB 1621.

In addition, Senate Bill 538 (Stats. 2021, ch. 686)⁴ expands the provisions concerning gun violence restraining orders regarding electronic filing and remote appearances. Specifically, SB 538 provides that by July 1, 2023, courts that receive gun violence restraining order petitions “shall permit those petitions to be submitted electronically” and “shall develop local rules and instructions for electronic filing.” (§ 18122.) Additionally, effective January 1, 2022, any “party or witness may appear remotely at the hearing on a petition for a gun violence restraining order” and courts must similarly develop local rules and instructions about doing so. (§ 18123.) Each superior court is required to post the requisite local rules and instructions to their website.

The committee thus recommends revisions to the gun violence restraining order forms to reflect the statutory amendments prohibiting possession of firearm parts and permitting electronic filings and remote appearances. The committee also recommends other revisions to the forms to improve usability.

Revisions relating to the definition of “firearms”

Given the expanded definition of “firearms” under AB 1621, the committee recommends adding the term “firearm parts” and an explanation of that term to each form in this proposal where prohibited items are listed. On most forms the explanation of the term follows in a

¹ AB 1621 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1621.

² All further statutory citations are to the Penal Code unless otherwise stated.

³ AB 1057 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057.

⁴ SB 538 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB538.

parenthetical—“firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531).”⁵ Other forms in the proposal contain a slight variation of such language. First, the information sheets in the proposal (forms GV-020-INFO, GV-100-INFO, GV-120-INFO, and GV-800-INFO) also use the nomenclature “ghost guns” in the explanation of “firearm parts.”⁶ Additionally, three of the court order forms in the proposal (forms GV-030, GV-110, and GV-130) and three information sheets (forms GV-020-INFO, GV-100-INFO, and GV-800-INFO) provide the above explanation of “firearm parts” in a new subitem listing all “prohibited items” (firearms, firearm parts, ammunition, and magazines). The information sheets also contain links to the California Courts Self-Help Guide on gun violence restraining orders. Subsequent mentions of the prohibited items in the forms refer to “the prohibited items” or “the prohibited items listed in item 6b [or 7b]” rather than each type of prohibited item.⁷

Revisions relating to remote appearances

In addition to revisions to include “firearm parts” and an explanation of that term, revisions to gun violence restraining order forms are also needed to implement SB 538, which allows parties and witnesses to appear at hearings on gun violence restraining orders remotely. Accordingly, the committee recommends including additional information about remote appearances on the following forms: form EPO-002, the notice of hearing forms (GV-009 and GV-109), three information sheets (forms GV-020-INFO, GV-100-INFO, and GV-120-INFO), and the order on request to continue the hearing (form GV-116). All of those proposed revised forms explain that the parties may attend the hearing remotely and advise the parties to check the court’s website for more information. Where space permits, those forms provide “phone and videoconference” as examples of remote attendance and also provide a link to the “Find Your Court” webpage on the California Courts website.⁸ Conforming changes, such as using “attend” in lieu of “go to” the hearing and referencing the ability to file papers electronically were also made to the relevant forms.

⁵ The first paragraph of item 2 of form EPO-002 does not contain similar added language because the text of the first paragraph is provided by section 18135, which was not amended by or in light of AB 1057 or AB 1621. This is also true of the first paragraph in “Warnings and Notices to the Restrained Party” on form GV-030 (§ 18180), the first paragraph in “Warnings and Notices to the Respondent” on form GV-110 (§ 18160), the first paragraph in “Warnings and Notices to the Respondent” on form GV-130 (§ 18180), and item 4c on form GV-730 (§ 18180). Minor modifications were made to such text on forms GV-030, GV-130, and GV-730 to track the statutory language.

⁶ A commenter suggested that this term not be used, but the committee concluded that such a term is used in common parlance and there is no harm in including it on the information sheets.

⁷ This revised language including “firearm parts” will also apply to domestic violence and juvenile restraining orders. Because the bills impact three protective order forms series, this committee worked with the Family and Juvenile Law Advisory Committee to harmonize the changes to the extent possible.

⁸ Note that while the relevant information about attending hearings remotely is on the first page of forms GV-009 and GV-109, the committee recommends including such information on page 3 of form GV-116. The committee found it important to retain the existing information about temporary restraining orders on the first page of form GV-116 and accordingly there was insufficient space to also include information about attending hearings remotely.

Other revisions related to interpreters and disability

The committee also recommends updating the language about interpreters and disability accommodations on forms GV-100-INFO and GV-120-INFO.

The proposed revisions regarding interpreters remove two incorrect statements—that anyone over age 18 and not involved in the case may serve as an interpreter and that parties may have to pay a fee for a court interpreter. The committee instead recommends that the information regarding interpreters on those forms include a reference to forms where litigants may request an interpreter and court website providing more information about interpreters, which has been translated into several languages

The committee also proposes broadening the language on these forms to include reference to “disabilities,” as opposed to just hearing disabilities and to also reference the information sheet about requesting court accommodations.

Similar changes are being made in information sheets for civil harassment, elder abuse, school violence, and workplace violence restraining orders in a separate proposal.

Policy implications

The revised forms in this proposal implement statutory changes that prohibit additional items for a person subject to a gun violence restraining order and permit electronic filing and remote appearances. Accordingly, the key policy decisions were made by the Legislature. The only policy implications are ensuring that council forms reflect the law correctly and are not misleading to parties. The proposed forms should assist courts and parties in navigating new and existing statutory provisions related to gun violence restraining orders.

Comments

The proposal was circulated for public comment between April 6 and May 13, 2022, as part of the regular winter comment cycle. Comments were received from the Giffords Law Center to Prevent Gun Violence, the Orange County Bar Association, the State of California Department of Justice, the Superior Courts of San Bernardino County and San Diego County, and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (TCPJAC/CEAC Joint Rules Subcommittee). Most of the of the commenters indicated their support of the proposal or that the proposal appropriately addressed its stated purpose and all the commenters offered suggestions to the proposal. The more significant suggestions are discussed below and a chart setting forth all the comments and the committee’s responses is attached at pages 59–68.

Form GV-800

The proof of surrender (form GV-800) is an optional form that can be used by the restrained person to show that they have properly surrendered all prohibited items that they have or own. In the invitation to comment (ITC) the committee proposed an alternative format for the form that provided separate items to be filled out by law enforcement and licensed gun dealers. The ITC asked commenters whether the alternative version was preferable. The commenters who

responded to that question preferred the circulated version of the form. The committee also sought feedback on the alternative format of the form from law enforcement officers, licensed gun dealers, and volunteers who filled out the form as if they were surrendering prohibited items. The law enforcement and the gun dealer testers indicated that the alternative format was not helpful, as both law enforcement and gun dealers list the turned-in items on their own forms that they would then need to attach to form GV-800. In light of this feedback, the committee recommends the original format for form GV-800, with a new check box added immediately above the signature lines which may be used to indicate that a separate form is attached for law enforcement and gun dealers.

A commenter also pointed out that items “seized” and “stored” are not mutually exclusive, as seized items can be stored or destroyed. Accordingly, the committee recommends the check box options “Sold,” “Stored,” and “To be destroyed” in the List of Items Surrendered. Additionally, in response to a comment that the proposed title of the form was vague and in response to users asking if the form acted as the “receipt” referred to in item 7 of form GV-130 (and on other forms), form GV-800 has been retitled *Receipt for Firearms, Firearms Parts, Ammunition, and Magazines*.

Several modifications are also proposed to the information sheet accompanying form GV-800 in response to suggestions to clarify similar information on domestic violence restraining order forms. The modifications include explaining that firearms and other prohibited items may not be given to a friend or family member and clarifying that both law enforcement and a licensed gun dealer may charge a fee to store firearms.

Service after hearing

Gun violence restraining orders issued after hearing are only required to be personally served on the restrained person if the restrained person “was not present in court at the time the order was issued or renewed.” (§ 18197.) As circulated, the gun violence order forms after hearing (forms GV-030, GV-130, and GV-730) stated that if the restrained person “attended the hearing” no other proof of service is needed. A member of the council’s Rules Committee suggested that such language be consistent across the different types of restraining orders and noted that it could be useful in determining whether service is required if a party attends a hearing remotely. In light of the comment, the committee re-examined the statutory language for service after hearing for the different types of restraining orders and recommends that the language on the forms at issue track the statute, and instead refer to the restrained person being “present in court.” The committee intends to work with other advisory committees that work on restraining orders in the coming rules cycle to consider whether new rules or statutory proposals should be recommended to the council to address the issue of whether personal service is required when parties have appeared remotely at hearings on restraining orders.

Terminology

Multiple commenters also suggested that certain language in the form series was confusing or easily misunderstood. In particular, commenters took issue with the phrase “guns [and] other firearms” and the word “surrender.” In light of these comments the committee recommends

using the language “firearms (guns)” throughout the form headings and text. “Firearms” without a parenthetical was retained in the findings and in language directed at law enforcement. Similarly, the committee proposes replacing “surrender” with “turn in, store, or sell” where possible. However, “surrender” was retained in certain instances and parentheticals were used to explain the meaning at the first appearance of the word. Penal Code sections 18135, 18160, and 18180 contain required notices that must appear on the orders. The required text of such notices contain the word “surrender” and do not define it. Accordingly, the committee believe including “surrender” with a definition is preferable to removing it altogether.

Mandatory CLETS information

In response to a separate proposal, the Family Violence Appellate Project suggested that the civil protective order forms for the temporary restraining order and order after hearing include stars/asterisks next to information about the restrained parties that is mandatory to enter the order into the California Law Enforcement Telecommunications System (CLETS), as is already provided on domestic violence forms. The mandatory fields are provided in the California Restraining and Protective Order System Terminal Operator’s Guide. The committee agreed and has included the suggested modification on forms GV-110 and GV-130. The proposed modification was not included on form GV-030 as the court completes that form.⁹

Alternatives considered

Because AB 1057, AB 1621, and SB 538 made significant and substantial changes to the procedures and definitions concerning gun violence restraining orders, the committee determined it must act and that taking no action would be inappropriate. The committee also determined it would be inappropriate to not take action to update the information regarding interpreters on the forms.

In addition to this proposal, the committee considered recommending a reformatted GV-800 with separate pages for law enforcement and gun dealers but concluded after reaching out to potential users that the current format of the form is preferable.

In proposing revisions relating to remote appearances, the committee also considered including space for the clerk to fill in information for the local court website with information about remote attendance on forms GV-009 and GV-109. The committee determined, however, that doing so would add significant additional burdens to the clerk’s office and offer little additional value compared to instructing litigants to go to the court’s website via the statewide webpage.

Fiscal and Operational Impacts

Most of the impacts arising from this new law—including education of judicial officers, staff, and justice partners as to the new provisions—are a result of the statute, not the forms proposal.

⁹ The forms in the proposal that collect identifying information about the restrained party also contain minor revisions to refer to “gender” as opposed to “sex” and provide a “nonbinary” option and check box. Such revisions are consistent with the Department of Justice procedures to register a protective order into CLETS, and the Rules Committee has directed advisory committees to make such revisions on council forms where possible.

The committee anticipates that this proposal will result in some costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff. However, all the new and revised forms are intended to assist courts in dealing with the impact of the legislation by making it easier for clerks and judicial officers to process requests for orders to allow contact or findings related to specific debts.

Attachments and Links

1. Forms EPO-002, GV-009, GV-020, GV-020-INFO, GV-030, GV-100, GV-100-INFO, GV-109, GV-110, GV-116, GV-120, GV-120-INFO, GV-125, GV-130, GV-710, GV-730, GV-800, and GV-800-INFO, at pages 9–58
2. Chart of comments, at pages 59–68
3. Link C: Assembly Bill 1621,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1621
4. Link A: Assembly Bill 1057,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1057
5. Link B: Senate Bill 538,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB538

EPO-002
GUN VIOLENCE EMERGENCY PROTECTIVE ORDER

LAW ENFORCEMENT CASE NUMBER:

1. RESTRAINED PERSON (insert name): _____
Address: _____

Gender: M F Nonbinary Ht.: _____ Wt.: _____ Hair color: _____

Eye color: _____ Race: _____ Age: _____ Date of birth: _____

2. TO THE RESTRAINED PERSON
(Also see important Warnings and Information on page 2):

You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with Section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazine while this order is in effect. However a more permanent gun violence restraining order may be obtained from the court. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

If you have any firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines you MUST IMMEDIATELY SURRENDER (GIVE) THEM if asked by a police officer. If a police officer does not ask you to surrender the items, within 24 hours of getting this order, you must take them to a police station or a licensed gun dealer to sell or store them and must file a receipt with the court proving that this has been done. You have 48 hours to file a receipt with the court shown to the right. If you do not file a receipt within 48 hours you have violated this order and can go to jail.

3. This order will last until: _____ Time _____
INSERT DATE OF 21st CALENDAR DAY (DO NOT COUNT DAY THE ORDER IS GRANTED)

4. Court Hearing A court hearing will be set within 21 days.
 A court hearing will take place at the court above on: Date: _____ Time/Dept: _____

You must attend the court hearing if you do not want this restraining order against you. You may attend the hearing remotely (check your court's website for instructions). At the hearing, the judge can make this order last for up to five years.

5. Reasonable grounds for the issuance of this order exist, and a Gun Violence Emergency Protective Order (1) is necessary because the Restrained Person poses an immediate danger of causing personal injury to **themselves** or to another by having custody or control, owning, purchasing, possessing, or receiving any firearms, **firearm parts**, ammunition, or magazines; and (2) less restrictive alternatives were ineffective or have been determined to be inadequate or inappropriate under the circumstances.

6. Judicial officer (name): _____ granted this order on (date): _____ at (time): _____

APPLICATION

7. Officer has a reasonable cause to believe that the grounds set forth in item 5, above, exist (state supporting facts and dates; specify weapons—number, type and location):

8. Firearms (including parts) were observed reported physically searched for seized.
 Ammunition (including magazines) was observed reported physically searched for seized.

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

By: _____
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____ Telephone No: _____ Badge No: _____

Address: _____

PROOF OF SERVICE

9. I personally delivered copies of this Order to the restrained person name in item 1.
Date of service: _____ Time of service: _____ Address: _____

10. At the time of service, I was at least 18 years of age.

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

Date: _____
(TYPE OR PRINT NAME OF SERVER/LAW ENFORCEMENT OFFICER)

(SIGNATURE OF SERVER)

Clerk stamps date here when form is filed.
DRAFT
8/10/2022
Not approved by the Judicial Council

Fill in court name and street address:
Superior Court of California, County of

Court fills in case number when form is filed.
Case Number:

GUN VIOLENCE EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

EPO-002

TO THE RESTRAINED PERSON: You are prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm (gun), a firearm part (any receiver, frame, or unfinished receiver or frame), ammunition, or a magazine. (Pen. Code, §§ 16531 & 18125 et seq.) A violation of this order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19 & 18205.) Within 24 hours of receipt of this order, you must turn in all items listed above to a law enforcement agency or sell them to or store them with a licensed firearms dealer until the expiration of this order. (Pen. Code, § 18125 et seq.) A receipt proving surrender, sale, or storage must be filed with the court within 48 hours of receipt of this order, or on the next court business day if the 48-hour period ends on a day when the court is closed. You must also file the receipt with the law enforcement agency that served you with this Order. You may use Form GV-800, *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines*.

This Gun Violence Emergency Protective Order is effective when made. It will last until the date and time in item 3 on the front. The court will hold a hearing within 21 days to determine if a longer-term order should be issued. If the date and time are not stated in item 4 on the front, you will get a notice with the date and time of the hearing in the mail at the residential address listed on page 1 of this form. If you would like to respond to this order in writing you must use Form GV-020, *Response to Gun Violence Emergency Protective Order*. A family member, employer, coworker, teacher, or school administrator may also seek a more permanent restraining order from the court.

If you violate this order, you will also be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm (gun), firearm part (any receiver, frame, or unfinished receiver or frame), ammunition, or magazine for an additional five-year period, to begin on the expiration of the more permanent gun violence restraining order. (Pen. Code, §§ 16531 & 18205.)

This protective order must be enforced by all law enforcement officers in the state of California who are aware of it or shown a copy of it. The terms and conditions of this order remain enforceable regardless of the acts or any agreement of the parties; it may be changed only by order of the court.

A LA PERSONA RESTRINGIDA: Tiene prohibido ser dueño de, o poseer, comprar, recibir, o tratar de comprar o recibir un arma de fuego, componentes de armas de fuego (todo recibidor o armazón, acabado o inacabado), municiones o cargadores. (Código Penal, §§ 16531 & 18125 y siguientes). Una violación de esta orden es un delito menor que está sujeta a una multa de \$1000 o encarcelamiento de seis meses o ambos. (Código Penal, §§ 19 & 18205.)

Dentro de las 24 horas de recibir esta orden, tiene que entregar todos los artículos indicados arriba a una agencia del orden público o venderlos a un comerciante de armas autorizado, o almacenarlos con el mismo hasta el vencimiento de esta orden. (Código Penal, § 18125 y siguientes). Se tiene que presentar a la corte una prueba de haberlos entregado, vendido, o almacenado dentro de las 48 horas de recibir esta orden, o el próximo día hábil, si el periodo de 48 horas termina un día en que está cerrada la corte. También tiene que presentar el recibo a la agencia del orden público que le entregó esta Orden. Se puede usar el formulario GV-800, *Recibo por armas de fuego, componentes de armas de fuego, municiones, y cargadores*.

Esta orden de protección de emergencia de armas de fuego entra en vigencia en el momento en que se emite. Durará hasta la fecha y hora indicadas en el punto 3 de la primera página. Se realizará una audiencia dentro de 21 días para determinar si es necesario emitir una orden que dure por más tiempo. Si la fecha y la hora no se indican en el punto 4 de la primera página, recibirá un aviso con la fecha y la hora de la audiencia por correo a la dirección residencial indicada en la primera página. Si desea responder a esta orden por escrito, tiene que usar el formulario GV-020, *Respuesta a la orden de protección de emergencia de armas de fuego*. Un miembro de su familia, su empleador, un colega del trabajo, un maestro o profesor, o administrador educativo también puede solicitar al tribunal una orden de restricción más permanente.

Si contraviene esta orden de restricción, se le prohibirá tener en su posesión o control, comprar, poseer o recibir, o tratar de comprar o recibir un arma de fuego, componentes de armas de fuego (todo recibidor o armazón, acabado o inacabado), municiones o cargadores por otro periodo de cinco años más, comenzando a partir del vencimiento de la orden de restricción de armas de fuego más permanente. (Código Penal, §§ 16531 & 18205.)

Todo agente del orden público del estado de California que tenga conocimiento de la orden o a quien se le muestre una copia de la misma tiene que hacer cumplir esta orden de protección. Los términos y condiciones de esta orden se podrán hacer cumplir independientemente de las acciones de las partes; solo la corte podrá cambiar esta orden.

To law enforcement: The Gun Violence Emergency Protective Order must be served on the restrained person by the officer if the restrained person can reasonably be located. Ask the restrained person if he or she has any firearms, firearm parts, ammunition, or magazines in his or her possession or under his or her custody or control. A copy must be filed with the court as soon as practicable, but not later than three court days, after issuance, so a hearing can be set, if one was not already scheduled. If the court did not give you a hearing date when issuing the order (to put in item 4 on the front), the court will set a hearing within 21 days and will provide you with notice of the hearing. Also, the officer must have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice.

The provisions in this temporary Gun Violence Emergency Protective Order do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

Clerk stamps date here when form is filed.

DRAFT**7/20/2022****Not approved by
the Judicial Council****1 Requesting Agency or Officer***(A petition may be filed in the name of the law enforcement agency in which the officer is employed)*Law enforcement agency or officer who applied for the *Gun Violence Emergency Protective Order*: _____

Fill in court name and street address:

Superior Court of California, County of**2 Restrained Person**

Full Name: _____

Address: _____

Court fills in case number.

Case Number:**3 Hearing**

A *Gun Violence Emergency Protective Order* (form EPO-002) having been served on the Restrained Person, the court will hold a hearing at the time and place below to determine if a longer-term gun violence restraining order should be issued.

Name and address of court if different from above:

**Hearing
Date**Date: _____ Time: _____
Dept.: _____ Room: _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause, and that a true copy of the *Notice of Court Hearing (Gun Violence Prevention)* (form GV-009) was mailed first class, postage fully prepaid, in a sealed envelope, addressed as shown below, and that the notice was mailed at (place): _____, California, on (date): _____

Date: _____ Clerk, by _____, Deputy

Name and address of law enforcement officer and agency

Name and address of Restrained Person

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

**Not approved by
the Judicial Council**

Use this form if you do not want the court to extend the *Gun Violence Emergency Protective Order* for a period of time between 1–5 years.

1. Read *How Can I Respond to a Gun Violence Emergency Protective Order?* (form GV-020-INFO) to protect your rights.
2. Fill out this form and take it to the filing window at the court.
3. Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the law enforcement agency that applied for the *Gun Violence Emergency Protective Order* (form EPO-002). (Use *Proof of Service by Mail* (form GV-025).)

Fill in court name and street address:

Superior Court of California, County of

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

See Notice of Hearing for case number and fill in:

Case Number:

2 Restrained Person

- a. Your Name: _____
 Your Lawyer *(if you have one for this case)*:
 Name: _____ State Bar No.: _____
 Firm Name: _____

- b. Your Address *(If you have a lawyer, give your lawyer’s information. You do not have to give telephone, fax, or email address.)*

Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don’t agree. Write your hearing date, time, and place from the Notice of Hearing or *Gun Violence Emergency Protective Order* (form EPO-002) here:

Hearing Date

→ Date: _____ Time: _____
 Dept.: _____ Room: _____

You must obey the *Gun Violence Emergency Protective Order* until the expiration date. At the hearing, the court may make an order against you for a period of time between 1–5 years.

3 Gun Violence Restraining Order

- I do not agree that a gun violence restraining order should be extended for 1–5 years *(explain)*:

- Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write “Attachment 3—Reasons I Disagree” as a title. You may use form MC-025, Attachment.



4 **Denial, Justification, or Excuse**

- I did not do anything described in item 7 of form EPO-002.
- If I did some of the things stated in the Gun Violence Emergency Protective Order, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space above for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 4—Denial, Justification, or Excuse" as a title. Use form MC-025, Attachment.

5 **Firearms (Guns), Firearm Parts, Ammunition, and Magazines**

A **Gun Violence Emergency Protective Order (form EPO-002)** was issued against you. You cannot own or possess any firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines. You must turn over any of these items in your possession to law enforcement when they ask you to do so. If not asked, you must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any of the above listed items in your immediate possession or control within 24 hours of being served with form EPO-002. You must file a receipt with the court and the law enforcement agency. You may use **Receipt for Firearms, Firearm Parts, Ammunition, and Magazines (form GV-800)** for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached has already been filed with the court and the law enforcement agency.

6 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

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

Date: _____

Type or print your name

▶ _____
Sign your name

What is a *Gun Violence Emergency Protective Order* (form EPO-002)?

It is a court order requested by law enforcement that prohibits someone from having any of the following prohibited items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531, also called “ghost guns”;
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store all prohibited items listed above that they currently own.

For more information about prohibited items, please see <https://selfhelp.courts.ca.gov/respond-to-GV-restraining-order/obey-firearms-orders>.

Who can ask for a gun violence emergency protective order?

The gun violence emergency protective order must have been requested by a law enforcement officer and was issued by a judicial officer based on the statements made under penalty of perjury in the protective order.

I've been served with a *Gun Violence Emergency Protective Order* (form EPO-002) and a *Notice of Court Hearing*. What do I do now?

Read the papers served on you very carefully. The *Notice of Court Hearing* or form EPO-002 tells you when to appear for court and where the court is located. If you want to attend the hearing remotely, such as by phone or videoconference, check your local court's website for instructions and availability. Follow the *Gun Violence Emergency Protective Order* (form EPO-002) prohibiting you from having any prohibited items listed above and requiring you to surrender, sell, or store any prohibited items that you currently own or possess. You must obey the order until the expiration date on the form.



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8/10/2022

Not approved by
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Council

What if I don't obey the emergency protective order?

The police can arrest you. You can go to jail and pay a fine. You may also be prohibited for a longer period of time from having access to firearms, firearm parts, ammunition, and magazines.

What if I don't want the order to be extended?

If you disagree with the order that has been issued and do not want the court to extend it for a longer time, fill out *Response to Gun Violence Emergency Protective Order* (form GV-020), before your hearing date. File the form with the court and serve it on the requesting law enforcement agency. You can get the form from legal publishers or on the Internet at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of the completed *Response to Gun Violence Emergency Protective Order* (form GV-020) to the law enforcement agency that issued the *Gun Violence Emergency Protective Order* (form EPO-002). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-025). Have the person who did the mailing sign the original form GV-025. Take the completed form back to the court clerk or bring it with you to the hearing.



Should I attend the court hearing?

Yes. You should attend the hearing listed on the *Notice of Court Hearing* or the *Gun Violence Emergency Protective Order* (form EPO-002). You can do so remotely, such as by telephone or videoconference, or go to court in person. If you do not attend the hearing, the judge can extend the order against you for a period of time between 1-5 years without hearing from you.

**Will I see the person who asked for the court order at the court hearing?**

It's possible the law enforcement officer may appear at the court hearing.

Can I attend the court hearing remotely, such as by telephone or videoconference?

Yes. Remote appearances are permitted for parties and witnesses. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find at www.courts.ca.gov/find-my-court.htm.

**What if I need help to understand English?**

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form MC-030) for this purpose.)

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

For help in your area, contact:

[Local information may be inserted.]

How long does the order last?

The *Gun Violence Emergency Protective Order* (form EPO-002) will last until the expiration date listed on the front of the form in item 3. The court will decide at the hearing whether to issue a gun violence restraining order that can last for a period of time between 1-5 years.

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

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the Judicial Council**

The court will complete this form.

1 Requesting Agency or Officer

(A petition may be filed in the name of the law enforcement agency in which the officer is employed.)

Law enforcement agency or officer that applied for the Gun Violence Emergency Protective Order: _____

2 Restrained Person

Full Name: _____

Lawyer (if there is one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

Description of Restrained Person

Gender: M F Nonbinary Height: _____ Weight: _____ Date of Birth: _____

Hair Color: _____ Eye Color: _____ Age: _____ Race: _____

Home Address: _____

City: _____ State: _____ Zip: _____

3 Expiration Date

This order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this order expires one year from the date of issuance.

4 Hearing

a. There was a hearing on (date): _____ at (time): _____ in Dept.: _____ Room: _____.

(Name of judicial officer): _____ made the orders at the hearing.

b. These people attended the hearing:

(1) The officer or representative of the Requesting Agency _____

(2) The Restrained Person Lawyer for the Restrained Person (name): _____

This is a Court Order.



6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 4 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**
- e. **Order dissolving (terminating) Gun Violence Emergency Protective Order.**
The court dissolves (terminates) the *Gun Violence Emergency Protective Order* (form EPO-002) originally issued on (date): _____ as of (date of hearing): _____.

7 Service of Order on the Restrained Person

- a. The Restrained Person was present in court at the time the order was issued. No other proof of service is needed. The clerk has provided the Restrained Person with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.
- b. The Restrained Person was not present in court at the time the order was issued. The Restrained Person must be personally served with a court file-stamped copy of this order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600), if a restraining order was granted.

8 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person

To the restrained person: This order will last until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.



Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, **any prohibited items listed in item 6b**, above, for a period of up to five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of **the prohibited items listed in item 6b**, above, or has custody or control of any of those items that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all **prohibited items**.
- Issue a receipt to the Restrained Person for all **prohibited items** that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use Form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, and Magazines

The law enforcement agency that has received the surrendered **prohibited items** listed in item 6b, above, must do the following:

- Retain the **prohibited items** until the expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the **prohibited items** to the Restrained Person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Restrained Person claims title to any of the **prohibited items** surrendered, determine whether that person is the lawful owner. If so, return the **prohibited items** to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Restrained Person had notice of the order. Consider the Restrained Person "served" (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file;
- The Restrained Person was informed of the order by an officer; or
- Item 7a is checked, **indicating** the Restrained Person **was present in court at the time the order was issued**.

This is a Court Order.



Instructions for Law Enforcement

(continued)

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it *(see above: Duties of Officer Serving This Order)*.

The provisions in this *Gun Violence Restraining Order After Hearing on EPO-002* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in another existing protective order remain in effect.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing on EPO-002 (CLETS-HGV)* (form GV-030) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Petition for Gun Violence Restraining Order

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

Not approved by the Judicial Council

Read *Can a Gun Violence Restraining Order Help Me?* (form GV-100-INFO) before completing this form.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

I am:

- A family member of the Respondent.
- An officer of a law enforcement agency (*A petition may be filed in the name of the law enforcement agency in which the officer is employed. If you wrote your full name above, write the name of the law enforcement agency that employs you*):
- An employer of the Respondent (*your position and name of company*):
- A coworker of the Respondent. I have had substantial and regular interactions with the Respondent for at least one year and I have obtained the approval of my employer to file this petition (*name of company*):
- An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months. I have obtained the approval of a school administrator to file this petition (*name of the school*):

b. Your Lawyer (*if you have one for this case*): Name: _____
Firm Name: _____ State Bar No.: _____

c. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.*)

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

2 Respondent

Full Name: _____ Age: _____
Address (*if known*): _____
City: _____ State: _____ Zip: _____

This is not a Court Order.



3 Venue

Why are you filing in this county? (Check all that apply):

- a. The Respondent lives in this county.
- b. Other (specify): _____

4 Other Court Cases

a. Are you aware of any other court cases, civil or criminal, involving the Respondent?

- Yes No *If yes, check each kind of case and give as much information as you know as to where and when each was filed:*

	<u>Kind of Case</u>	<u>Filed in (County/State)</u>	<u>Year Filed</u>	<u>Case Number (if known)</u>
(1)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(2)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(3)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(4)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(5)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(8)	<input type="checkbox"/> Criminal	_____	_____	_____
(9)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

b. Are there now any protective or restraining orders in effect relating to Respondent?

- Yes No I don't know *If yes, attach a copy if you have one.*

5 Description of Respondent's Firearms (Guns), Firearm Parts, Ammunition, or Magazines

If you have reason to believe that the respondent is in possession of firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines, answer 5a or check 5b, below.

a. I am informed, and on that basis believe, that Respondent currently possesses or controls the following firearms, firearm parts, ammunition, or magazines (describe the number, types, and locations of any of those items that you believe that the Respondent currently possesses or controls):

	<u>Types of firearms (guns), firearm parts, ammunition or magazines</u>	<u>How many or what amount?</u>	<u>Location, if known</u>
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

b. I am informed, and on that basis believe, that Respondent currently possesses or controls firearms, firearm parts, ammunition, or magazines, but I have no further specific information as to the number, types, and locations of those items.

This is not a Court Order.



8 No Fee to Serve (Notify) Restrained Person

If you want the sheriff or marshal to serve (notify) the restrained person about the orders, they will do it for free.

9 Request for Hearing

I request that the court set a hearing in this matter for the purpose of issuing a gun violence restraining order that will last between one and five years.

10 Temporary Gun Violence Restraining Order

I request that a temporary gun violence restraining order be issued against the Respondent to last until the hearing. I am presenting *Temporary Gun Violence Restraining Order* (form GV-110) for the court's signature together with this Petition.

Has the Respondent been told that you were going to court to seek a temporary gun violence restraining order?

Yes No *(If you answered no, explain why below):*

Reasons stated in Attachment 10.

11 Request to Give Less Than Five Days' Notice of Hearing

You must have your papers personally served on Respondent at least five calendar days before the hearing, unless the court orders a shorter time for service. (See What Is "Proof of Personal Service"? (form GV-200-INFO). Proof of Personal Service (form GV-200) may be used to show the court that the papers have been served.)

If you want there to be fewer than five days between service and the hearing, explain why below:

Reasons stated in Attachment 11.

12 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

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

Date: _____

Type or print your name

Sign your name

This is not a Court Order.

These instructions cannot cover all of the questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see a lawyer or a self-help center.

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any of the following items:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including finished or unfinished receivers and frames, also called “ghost guns”;
- Ammunition; and
- Magazines (any ammunition feeding device).

The person must turn in, sell, or store any prohibited items listed above that that person currently owns. The police will come and remove the items or the person can store them with a licensed gun dealer while the restraining order is in effect. The restrained person also cannot buy any of the prohibited items during this time.

For more information about prohibited items, please see <https://selfhelp.courts.ca.gov/respond-to-GV-restraining-order/obey-firearms-orders>.

Can I get a gun violence restraining order against someone?

You can ask for one if you are connected to the person you think is dangerous as:

- An immediate family member;
- An employer;
- A coworker who has substantial and regular interactions with the person and has worked with them for at least a year. You must have permission from your employer to ask for the restraining order;
- An employee or teacher at a school that the person has attended in the last six months, where you have permission from a school administrator or staff member who has a supervisory role; or
- A law enforcement officer or law enforcement agency.

Immediate family members include:

- Your spouse or domestic partner;
- Your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent;

Immediate family members (continued):

- Your spouse’s parents, children (your stepchildren), siblings, grandparents, and grandchildren; and
- Any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

If you do not have the necessary relationship, advise a law enforcement officer of the situation. The officer may investigate and file the petition if grounds exist.

Will I have to pay a filing fee to request the order?

No.

Will the order protect me in other ways, such as keeping the person from coming near me?

No, the only order the court can make is to force the person to not have the prohibited items listed above. If you need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act. See *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO) for information on how to proceed. For information on other civil restraining orders, please see <https://selfhelp.courts.ca.gov/restraining-orders-california>.

What forms do I need to get the order?

You must fill out the following forms:

- *Petition for Gun Violence Restraining Order* (form GV-100);
- *Confidential CLETS Information* (form CLETS-001);
- *Notice of Court Hearing* (form GV-109), items 1 and 2 only; and
- *Temporary Gun Violence Restraining Order* (form GV-110), items 1 and 2 only.

You may need other local forms. Ask your self-help center or visit your court’s website.

Where can I get these forms?

You can get the forms from legal publishers or on the Internet at www.courts.ca.gov/forms. You also may be able to find them at your local courthouse or county law library.



What do I need to do to get the order?

You must **file your papers** with the superior court in the county where the person to be restrained lives. **Check online or ask the court how to file your request** for a gun violence restraining order. (A self-help center or legal aid association may be able to assist you in filing your request.) **File your forms electronically or give your forms to the clerk of the court.** The court will give you a hearing date on the *Notice of Court Hearing* form.

How soon can I get the order?

You can ask for a temporary gun violence restraining order, which will be effective right away if granted. The court may decide whether or not to grant the temporary order based only on the facts that you have stated in your petition. If so, the court will decide within 24 hours whether or not to make the temporary order. Sometimes the court will want to examine you personally under oath. **If you file in person**, the clerk will tell you whether you should wait to talk to the judge or come back later to find out if the court has signed a temporary order.

If you don't ask for a temporary restraining order, you will have to wait until the hearing, at which the court will decide whether to make an order that will last for a period of time between 1–5 years.

How will the person to be restrained know about the order?



If the court issues a temporary restraining order, someone age 18 or older—**not you**—must personally “serve” (give) the person to be restrained a copy of the order. The server must then fill out *Proof of Personal Service* (form GV-200) and give it to you to file with the court. If the person to be restrained attends the hearing, no further proof of service is required. But if they do not attend the hearing, then any order issued at the hearing must also be personally served. For help with service, ask the court clerk for *What Is “Proof of Personal Service”?* (form GV-200-INFO). Note: A sheriff or marshal can serve the order for free.

Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.

What do I have to prove to get the order?

You will have to convince the judge that the person to be restrained poses a significant danger in the near future of causing personal injury to **themselves** or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving **any of the prohibited items listed on page 1.**

You will also have to convince the judge that a gun violence restraining order is needed to prevent personal injury to the person to be restrained or to another person because less restrictive alternatives either have been tried and haven't worked, or are inadequate or inappropriate for the current circumstances.



How can I convince the judge?

You will need to give the judge specific information. You should tell the judge everything that you know about the firearms, **firearm parts**, ammunition, or magazines that the person to be restrained currently owns, including how many the person owns, the types, and where they are kept.

Then you will need to present facts to show that the person to be restrained is dangerous. This could be information about any threat of violence that the person to be restrained has made, any violent incident in which the person has been involved, or any crime of violence the person has committed. It could also be evidence that the person to be restrained has violated a protective order or abuses controlled substances or alcohol. It could also be evidence of the unlawful and reckless use, display, or brandishing of a firearm or the recent acquisition of a firearm. Or it could be evidence that the person to be restrained has been identified by a mental health provider as someone prohibited from purchasing, possessing or controlling any firearms.

You should include all of this information in your Petition and also be prepared to present it to the judge at the hearing.



Do I have to attend a court hearing?

Yes. Attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109).

GV-109 Notice of Court Hearing

1 **Petitioner**

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by (name of law enforcement agency): _____

b. Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail. Law enforcement officer, give agency information.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

2 **Respondent**
 Full Name: _____

3 **Hearing**
 The court will complete the rest of this form.
 Name and address of court if different from above: _____

Hearing Date: _____ Date: _____ Time: _____
 Dept.: _____ Room: _____

4 **Temporary Gun Violence Restraining Order** (Any order granted is on Form GV-110, served with this notice.)
 a. A Temporary Gun Violence Restraining Order as requested in Form GV-100, *Petition for Gun Violence Restraining Order*, is (check only one box below):
 (1) GRANTED until the court hearing.
 (2) DENIED until the court hearing. (Specify reasons for denial in b, below.)

Address of Court of California: www.courtinfo.ca.gov
 Publication: 2020 September Form
 Approved by DOJ

Notice of Court Hearing (Gun Violence Prevention) GV-109, Page 1 of 3

Will I see the restrained person at the court hearing?

If the person attends the hearing, yes. If you are afraid, tell the court.

How long does the order last?

If the court makes a temporary order, it will last until your hearing date, which must be within 21 days of the date of the temporary order. If at the hearing the court issues a more permanent order, it will last for one to five years. It may be renewed for an additional one to five years.

What if the restrained person does not obey the order?

Call the police. The restrained person can be arrested and charged with a crime.

Can I agree with the restrained person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. The restrained person would have to file a request with the court to terminate the order.

You can attend the hearing remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Can someone attend the hearing with me?

Yes. Someone can sit with you during the hearing, but that person cannot speak for you to the court. Only you or your lawyer (if you have one) can speak for you.

Do I need to bring a witness to the hearing?

Witnesses are not required, but it helps to have more proof than just your word. For example, consider bringing:

- Witnesses
- Written statements from witnesses made under oath
- Photos
- Medical or police reports
- Damaged property
- Threatening letters, emails, or telephone messages

The court may or may not let witnesses speak at the hearing. So, if possible, you should bring their written statements under oath to the hearing. (You can use *Declaration* (form MC-030) for this purpose.)

Aa 我 What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

Information about the process is also available online.

<https://selfhelp.courts.ca.gov/GV-restraining-order>.

For help in your area, contact:

[Local information may be inserted.]

Petitioner must complete items ① and ② only.

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

**Not approved by
the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency.
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

b. Your Lawyer *(if you have one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

c. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

② Respondent

Full Name: _____

The court will complete the rest of this form.

③ Hearing

Hearing Date →

Date: _____ Time: _____ Name and address of court if different from above: _____
 Dept.: _____ Room: _____ _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

④ Temporary Gun Violence Restraining Order *(Any order granted is on form GV-110, served with this notice.)*

a. A Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) is *(check only one box below)*:

(1) **GRANTED** until the court hearing.

(2) **DENIED** until the court hearing. *(Specify reasons for denial in b, below.)*



4 b. Reasons for denial of a Temporary Gun Violence Restraining Order as requested in *Petition for Gun Violence Restraining Order* (form GV-100) are:

(1) The facts as stated in form GV-100 do not show that there is a substantial likelihood that both of the following are true:

Respondent poses a significant danger of causing personal injury to themselves or another person by having custody or control of, owning, purchasing, possessing, or receiving firearms, firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines.

A gun violence restraining order is necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.

(2) Other (as stated): Below On Attachment 4b(2)

5 Service of Documents on Respondent

At least five _____ calendar days before the hearing, a law enforcement officer or someone age 18 or older—and not a party to the action—must personally give (serve) a court file-stamped copy of this Form GV-109 to the Respondent, along with a copy of all the forms indicated below:

- a. GV-100, *Petition for Gun Violence Restraining Order* (file-stamped)
- b. GV-110, *Temporary Gun Violence Restraining Order* (file-stamped) **IF GRANTED**
- c. GV-120, *Response to Petition for Gun Violence Restraining Order* (blank form)
- d. GV-120-INFO, *How Can I Respond to a Petition for a Gun Violence Restraining Order?*
- e. GV-250, *Proof of Service by Mail* (blank form)
- f. GV-125, *Consent to Gun Violence Restraining Order and Surrender of Firearms* (blank form)
- g. Other (specify): _____

Date: _____

Judicial Officer



To the Petitioner in 1:

- The court cannot make an order at the court hearing unless the Respondent has been personally given (served) a copy of the Petition and a temporary order if issued. To show that the Respondent has been served, the person who served the forms must fill out a proof of service form. *Proof of Personal Service* (form GV-200) may be used.
- For information about service, read *What Is “Proof of Personal Service”?* (form GV-200-INFO).
- If you are unable to serve the Respondent in time, you may ask for a later hearing date, which will give you more time to serve the documents. Use *Request to Continue Court Hearing for Gun Violence Restraining Order* (form GV-115).

To the Respondent:

- If you want to oppose the *Petition for Gun Violence Restraining Order* (form GV-100) in writing, file *Response to Petition for Gun Violence Restraining Order* (form GV-120) and have someone age 18 or older—**not you**—mail it to the Petitioner.
- The person who mailed the form must fill out a proof of service form. *Proof of Service by Mail* (form GV-250) may be used. File the completed form with the court before the hearing and bring a copy with you to the court hearing.
- Whether or not you respond in writing, attend the hearing if you want the judge to hear from you before making an order. You may tell the judge why you agree or disagree with the order requested.
- You may bring witnesses and other evidence.
- At the hearing, the judge may order you to turn in to law enforcement, or sell to or store with, a licensed gun dealer, any firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines that you own or possess. If issued, the order will last for one year.
- If you do not oppose the petition and are willing to give up your firearm rights, complete and file a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Notice of Court Hearing* (form GV-109) is a true and correct copy of the original on file in the court.

Clerk's Certificate

[seal]

Date: _____

Clerk, by _____, Deputy

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

Not approved by the Judicial Council

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent
 An officer of a law enforcement agency
 An employer of the Respondent
 A coworker of the Respondent
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months

b. Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____
Firm Name: _____

c. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)

Address: _____
City: _____ State: ____ Zip: _____
Telephone: _____ Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

② Respondent

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

The court will complete the rest of this form.

③ Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: _____ Time: _____ a.m. p.m.

This is a Court Order.



6 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. The court has received credible information that you own or possess one or more prohibited items that have not been turned in, sold, or stored. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order or any more permanent order granted at the hearing in item 3 is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

7 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. You are required to surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code and you may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any firearm, ammunition, or magazines while this order is in effect. A hearing will be held on the date and at the time noted on Page 1 to determine if a more permanent gun violence restraining order should be issued. Failure to appear at the hearing may result in a court making an order against you that is valid for a period between one and five years. You may seek the advice of an attorney as to any matter connected with the order. The attorney should be consulted promptly so that the attorney may assist you in any matter connected with the order.

Violation of this Order is a misdemeanor. If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 6b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the state of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be changed only by an order of the court.

This is a Court Order.



After You Have Been Served With a Temporary Order

- Obey the order by turning in all firearms (guns), firearm parts, ammunition, and magazines to a law enforcement agency or selling them to or storing them with a licensed gun dealer.
- Read *How Can I Respond to a Petition for Gun Violence Restraining Order?* (form GV-120-INFO) to learn how to respond to this Order.
- If you do not oppose the petition, fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) and file it with the court clerk.
- If you disagree with the petition, fill out *Response to Petition for Gun Violence Restraining Order* (form GV-120) and file it with the court clerk.
- You must have form GV-120 served by mail on the Petitioner or the Petitioner's attorney. You cannot do this yourself. The person who does the mailing should complete and sign *Proof of Service by Mail* (form GV-250). File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use *Declaration* (form MC-030) for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at www.courts.ca.gov/forms. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also attend the hearing. You and your witnesses may attend the hearing remotely (check with your court for instructions).
- At the hearing, the judge can make a gun violence restraining order against you that lasts between one to five years. Tell the judge why you disagree with the order requested.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 6b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition, or Magazines

The law enforcement agency that has received the surrendered prohibited items listed in item 6b, above, must do the following:

- Retain the prohibited items until the termination or expiration of this Order or of any other gun violence restraining order issued by the court.
- On the expiration of this Order or of any later gun violence restraining order issued by the court, return the prohibited items to the respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.

This is a Court Order.



Instructions for Law Enforcement*(continued)*

- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

Enforcing This Order

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The Respondent was informed of the order by an officer; or
- The officer sees a filed copy of form GV-125.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the Respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Temporary Gun Violence Restraining Order* do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other another existing protective order remain in effect.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Gun Violence Restraining Order (CLETS-TGV)* (form GV-110) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Complete items ① and ② only.

① **Petitioner:** _____

② **Respondent:** _____

_____ **The court will complete the rest of this form** _____

③ **Next Court Date**

a. The request to reschedule the court date is **denied**.

Your court date is: _____

(1) Any *Temporary Gun Violence Restraining Order* ([form GV-110](#)) or *Gun Violence Emergency Protective Order* ([form EPO-002](#)) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.

Name and address of court, if different from above:

New Court Date	→ Date: _____ Time: _____
	Dept.: _____ Room: _____

④ **Temporary Gun Violence Restraining Order or Gun Violence Emergency Protective Order**

a. **There is no *Temporary Gun Violence Restraining Order* (TRO) in this case** because:

(1) A TRO was not previously granted by the court.

(2) The court terminates (cancels) the previously granted TRO because: _____

b. **A *Temporary Gun Violence Restraining Order* ([form GV-110](#)) is still in full force and effect** because:

(1) The court extends the order previously granted on (date): _____
It now expires on (date): _____
(If no date is listed, the TRO expires at the end of the court date listed in 3b.)

c. **A *Gun Violence Emergency Protective Order* ([form EPO-002](#)) is still in full force and effect.**

(1) The court extends the order previously granted on (date): _____
It now expires on (date): _____
(If no date is listed, the TRO expires at the end of the court date listed in 3b.)

d. **Other (specify):** _____

Warning and Notice to the Restrained Party:
If ④ b or c is checked, a gun violence restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



5 Reason Court Date Is Rescheduled

a. There is good cause to reschedule the court date (*check one*):

(1) The protected party has not served the restrained party.

(2) Other: _____

b. The court reschedules the court date on its own motion.

6 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. **Petitioner/Requesting Agency** b. **Respondent/Restrained Party** c. **Court**

(1) You do not have to serve the respondent/restrained party because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the restrained party personally served with a copy of this order and a copy of all documents listed on form [GV-109](#), item **5**, by
(date): _____

(3) You must serve the respondent/restrained party with a copy of this order. This can be done by mail. You must serve by
(date): _____

(4) Other: _____

(1) You do not have to serve the petitioner because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) You must have the petitioner personally served with a copy of this order by
(date): _____

(3) You must serve the petitioner with a copy of this order. This can be done by mail. You must serve by
(date): _____

(4) Other: _____

(1) Further notice is not required.

(2) The court will mail a copy of this order to all parties by
(date): _____

(3) Other: _____

This is a Court Order.



7 No Fee to Serve

The sheriff or marshal will serve this order for **free**.
Bring a copy of all the papers that need to be served to the sheriff or marshal.

8 Remote Appearances

You may attend your hearing listed in item **3** remotely, such as by phone or videoconference. For more information, go to the court’s website for the county listed above. To find the court’s website, go to www.courts.ca.gov/find-my-court.htm.

9 **Other Orders**

Date: _____

Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk’s office or go to www.courts.ca.gov/forms.htm for *Disability Accommodation Request* ([form MC-410](#)). (Civ. Code, § 54.8.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS. This must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk’s Certificate [seal] I certify that this *Order on Request to Continue Hearing (EPO-002 or Temporary Restraining Order) (CLETS-EGV or CLETS-TGV)* (form GV-116) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

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Use this form to respond to the Petition (form GV-100)

- Read *How Can I Respond to a Petition for a Gun Violence Restraining Order?* (form GV-120-INFO) to protect your rights.
- If you agree to the Petition for a gun violence restraining order filed against you, use *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) to agree to a voluntary gun violence restraining order.
- If you do not agree to the gun violence restraining order filed against you, fill out this form and take it to the filing window at the court.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form GV-250).)

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:

1 Petitioner

Name of person or law enforcement agency seeking order (see form GV-100, item 1):

2 Respondent

a. Your Name: _____
 Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

Be prepared to tell the court at the hearing why you don't agree. Write your hearing date, time, and place from form GV-109 item 3 here:

Hearing Date → Date: _____ Time: _____
 Dept.: _____ Room: _____

If a Temporary Gun Violence Restraining Order was issued, you must obey it until the hearing. At the hearing, the court may make an order against you for one to five years.

3 Gun Violence Restraining Order

I do not agree to the order requested in the Petition because:

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 3—Reasons I Disagree" as a title. You may use Attachment (form MC-025).



4 **Denial**

I did not do anything described in item **6** of form GV-100.

5 **Justification or Excuse**

If I did some or all of the things that the Petitioner has accused me of, my actions were justified or excused for the following reasons (*explain*):

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper and write "Attachment 5—Justification or Excuse" as a title. You may use Attachment (form MC-025).

6 **Firearms (Guns), Firearms Parts, Ammunition, and Magazines**

If a *Temporary Gun Violence Restraining Order* (form GV-110) was issued, you cannot own or possess any **firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines.** (See item **6** of form GV-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency or officer, any of **those items** in your immediate possession or control within 24 hours of being served with form GV-110. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt
 - is attached. has already been filed with the court.

7 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

Lawyer's signature

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

Date: _____

Type or print your name

Sign your name

What is a gun violence restraining order?

It is a court order that temporarily prohibits someone from having any firearms (guns), firearm parts, including finished or unfinished receivers and frames, also called “ghost guns,” ammunition, or magazines (any ammunition feeding device). The person must turn in, sell, or store all such items that the person currently owns.

For more information about prohibited items and obeying these orders, please see <https://selfhelp.courts.ca.gov/respond-to-GV-restraining-order/obey-firearms-orders>.

I've been served with a Petition for Gun Violence Restraining Order. What do I do?

Read the papers served on you very carefully. The *Notice of Court Hearing* (form GV-109) tells you when to appear in court. There may also be a *Temporary Gun Violence Restraining Order* (form GV-110) prohibiting you from having any firearms (guns), firearm parts, ammunition, or magazines and requiring you to turn in, sell, or store any such items that you currently own or possess. You must obey the order until the hearing.

Who can ask for a gun violence restraining order?

The petition must have been filed by a:

- Law enforcement officer or law enforcement agency,
- An employer,
- A coworker who has had “regular interactions” with you for at least a year,
- A teacher or employee of a school that you have attended in the last 6 months, or
- An immediate family member of yours.

Immediate family member is defined by this law to include people who are not blood relatives. The definition includes (1) your spouse or domestic partner; (2) your parents, children, siblings, grandparents, and grandchildren and their spouses, including any stepparent or stepgrandparent; (3) your spouses parents, children (your stepchildren), siblings, grandparents, and grandchildren; and (4) any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

What if I don't obey the temporary order?

The police can arrest you. You can go to jail and pay a fine. You could lose access to firearms and other items for a longer period of time.



What if I don't agree with what the order says?

If you disagree with the order that the Petitioner is asking for, fill out *Response to Petition for Gun Violence Restraining Order* (form GV-120) before your hearing date and file it with the court. You can get the form from legal publishers or on the Internet at www.courts.ca.gov/forms. You also may be able to find it at your local courthouse or county law library.

What if I don't oppose the Petition?

If you agree to give up your access to firearms and your rights to own, possess, and buy guns, firearm parts, ammunition, and magazines for the time period requested in the petition, which is between one and five years, then you can fill out *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125) and check the box for item 4a. Make sure you take it to the court clerk and file it, and then mail it to the person or law enforcement agency that applied for the petition. The court will issue the gun violence restraining order before the hearing and remove the hearing from the calendar. You do not have to go to your court date, and the court will mail you a copy of the order. Make sure you check with the court to see if you have to show up for your court date.

Will I have to pay a filing fee?

No.

Do I have to serve the other person with a copy of my response?

Yes. Have someone age 18 or older—**not you**—mail a copy of completed *Response to Petition for Gun Violence Restraining Order* (form GV-120) to the person who asked for the order (or that person’s lawyer). (This is called “service by mail.”)

The person who serves the form by mail must fill out *Proof of Service by Mail* (form GV-250). Have the person who did the mailing sign the original. Take the completed form back to the court clerk or bring it with you to the hearing.



Do I need a lawyer?

Having a lawyer is always a good idea, but it is not required, and you are not entitled to a free, court-appointed attorney. Ask the court clerk about free and low-cost legal services and self-help centers in your county.



Should I attend the court hearing?

Yes. You should attend the hearing on the date listed on *Notice of Court Hearing* (form GV-109). If you do not attend the hearing, the judge can extend the order against you for a period between one and five years without hearing from you.

The image shows the form GV-109, Notice of Court Hearing. It includes sections for: 1. Petitioner (Name, relationship to respondent, lawyer information, address), 2. Respondent (Full Name), 3. Hearing (Date, Time, Room, Name and address of court), and 4. Temporary Gun Violence Restraining Order (GRANTED or DENIED). The form also includes a box for the court clerk to stamp the date when filed and a case number box.

You can attend the hearing by remotely, such as by telephone or videoconference, or go to court in person. Check with your local court for instructions on how to appear remotely. Information is also available on the court's website, which you can find here: www.courts.ca.gov/find-my-court.htm.

Information about the process is also available online. <https://selfhelp.courts.ca.gov/GV-restraining-order>.

How long does the order last?

If the court issued a temporary restraining order before the hearing, it will last until your hearing date. At that time, the court will decide whether to issue a gun violence restraining order that can last for one to five years.

Will I see the person who asked for the order at the court hearing?

Assume that the person who is asking for the order will attend the hearing. It is probably best not to talk to them unless the judge or that person's attorney says that you can.

Can I bring a witness to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. But if possible, you should also bring the witnesses' written statements of what they saw or heard. Their statements must be made under penalty of perjury. (You can use *Declaration* (form MC-030) for this purpose.)

Can I agree with the protected person to terminate the order?

No. Once the order is issued, only the judge can change or terminate it. You would have to file a request with the court to terminate the order.



What if I need help to understand English?

When you file your papers, ask the clerk if a court interpreter is available. You can also use form INT-300, *Request for Interpreter (Civil)*, or a local court form or website to request an interpreter. For more information about court interpreters, go to www.courts.ca.gov/selfhelp-interpreter.htm.

What if I have a disability?

If you have a disability and need an accommodation while you are at court, you can use form MC-410, *Disability Accommodation Request*, to make your request. You can also ask the ADA Coordinator in your court for help. For more information, see form MC-410-INFO, *How to Request a Disability Accommodation for Court*.

For help in your area, contact:

[Local information may be inserted.]

Use this form if you have been served with a Petition for Gun Violence Restraining Order (form GV-100) and you want to agree to voluntarily give up your firearm rights without a court hearing.

- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—mail a copy of this form and any attached pages to the Petitioner or to their lawyer. (Use *Proof of Service by Mail* (form GV-250).)
- If you do not agree to a gun violence restraining order, use *Response to Petition for Gun Violence Restraining Order* (form GV-120) to tell the court you oppose a gun violence restraining order.

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the Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

See Petition for case number and fill in:

Case Number:**1 Petitioner**

Name of person or law enforcement agency seeking order (see form GV-100, item ①):

2 Respondent

- a. Your Name: _____
 Your Lawyer (if you have one for this case):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 Email Address: _____

3 Gun Violence Restraining Order

- By checking this box and signing this form, I agree to give up my right to own, possess, or purchase firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), magazines, and ammunition for the time requested in the petition (between one to five years) or, if no time is specified, then for one year.
- I am not contesting the petition.
 - I understand that the petitioner can request to renew this order for one to five years.
 - I understand that I can only request to terminate this order once per year while it is in effect.



4 Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- After you file this form, the court will issue a *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) and send it to you and the petitioner in the mail.
- This form will be listed in the statewide California Restraining and Protective Order System, where it will be accessible to all law enforcement.
- You cannot own or possess any guns, other firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, those items in your immediate possession or control within 48 hours of filing this form. You must file a receipt with the court. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.

- a. I do not own or control any firearms (guns), firearm parts, ammunition, or magazines.
- b. I have turned in my firearms (guns), firearm parts, ammunition, and magazines to a law enforcement officer or agency, or sold them to or stored them with a licensed gun dealer. A copy of the receipt is attached. has already been filed with the court.

Instructions to Clerk

- On the filing of *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125), submit the proposed order, *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) to the judicial officer, because the court must issue the order at least five court days before the scheduled hearing, or if this form is filed within five court days before the scheduled hearing, the court must issue, without any hearing, the gun violence restraining order, as soon as possible.
- Within one business day of issuance of the order, submit this form directly into the California Restraining and Protective Order System (CARPOS) or to law enforcement to enter into CARPOS within one business day of receipt from the court.

Date: _____

Lawyer's name (if any)

Lawyer's signature

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

Date: _____

Type or print your name

Sign your name

Clerk stamps date here when form is filed.

DRAFT

8/10/2022

**Not approved by
the Judicial Council**

Petitioner must complete items ① and ② only.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- _____
- I am: A family member of the Respondent.
 An officer of a law enforcement agency *(A petition may be filed in the name of the law enforcement agency in which the officer is employed).*
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

b. Your Lawyer *(if you have one for this case):*

Name: _____ State Bar No.: _____
Firm Name: _____

c. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____
City: _____ State: _____ Zip: _____ Telephone: _____
Email Address: _____ Fax: _____

② Respondent

(Give all the information you know. Information with a star () is required to add this order to the California police database. If age is unknown, give an estimate.)*

*Full Name: _____ *Age: _____ Date of Birth: _____
 *Race: _____ Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 *Gender: M F Nonbinary Home Address: _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

③ Expiration Date

The court will complete the rest of this form.

This Order expires at:

(Time): _____ a.m. p.m. midnight on (date): _____

If no expiration date is written here, this Order expires one year from the date of issuance.

This is a Court Order.



6 No Fee to Serve

If the sheriff or marshal serves this order, service will be free.

7 No Firearms (Guns), Firearm Parts, Ammunition, and Magazines

- a. You cannot have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive, any prohibited items listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531);
 - (3) Ammunition; and
 - (4) Magazines (ammunition feeding devices).
- c. You must surrender (turn in, sell, or store) all prohibited items in your custody or control or that you possess or own. If a law enforcement officer asks you to turn over your prohibited items, you must do so immediately. If no request is made by a law enforcement officer, you must surrender all prohibited items within 24 hours of being served with this Order. You may surrender these items by turning them in to law enforcement, selling them to a licensed gun dealer, or storing them with a licensed gun dealer for as long as this Order is in effect.
- d. Within 48 hours of receiving this Order, you must file a receipt with the court that proves that all your prohibited items have been turned in, sold, or stored. (You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for the receipt.) You must also file a copy of the receipt with the law enforcement agency that served you with this order. **FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER.**

8 Service of Order on Respondent

- a. The Respondent was present in court at the time the order was issued. No other proof of service is needed. The clerk has provided the Respondent with a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600).
- b. The Respondent was not present in court at the time the order was issued. The Respondent must be personally served with a court file-stamped copy of this Order and a blank copy of *Request to Terminate Gun Violence Restraining Order* (form GV-600) by a law enforcement officer or someone age 18 or older, **and not a party to the action.**
- c. This is an order based on the Respondent's filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125). The court will provide notice to all parties.

9 Number of pages attached to this Order, if any: _____

Date: _____

Judicial Officer

This is a Court Order.



Warnings and Notices to the Respondent

To the restrained person: This Order is valid until the expiration date and time noted on page 1. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this Order is in effect. Pursuant to section 18185, you have the right to request a hearing on an annual basis to terminate this Order during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

Violation of this Order is a misdemeanor punishable by a \$1,000 fine or imprisonment for six months or both. (Pen. Code, §§ 19, 18205.) If you violate this Order, you will be prohibited from having in your custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, any prohibited items listed in item 7b, above, for a period of five years. This Order must be enforced by any law enforcement officer in the State of California who is aware of or shown a copy of this Order. The Order remains enforceable regardless of the acts of the parties; it may be terminated only by an order of the court.

Instructions for Law Enforcement

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in item 7b, above, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. The officer may use form GV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Duties of Agency on Surrender of Firearms, Firearm Parts, Ammunition and Magazines

The law enforcement agency that has received surrendered prohibited items listed in item 7b, above, must do the following:

- Retain the prohibited items until the expiration of this order or of any other gun violence restraining order issued by the court.
- On the expiration of this order or of any later gun violence restraining order issued by the court, return the prohibited items to the Respondent as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850). Section 34000 provides for the sale or destruction of any unclaimed items.
- If someone other than the Respondent claims title to any of the prohibited items surrendered, determine whether that person is the lawful owner. If so, return the prohibited items to that person as provided by chapter 2 of division 11 of title 4 of the Penal Code (commencing with section 33850).

This is a Court Order.



Instructions for Law Enforcement*(continued)***Enforcing This Order**

The law enforcement officer should determine if the Respondent had notice of the order. Consider the Respondent “served” (given notice) if:

- The officer sees a copy of the proof of service or confirms that the proof of service is on file; or
- The respondent was informed of the order by an officer.
- Item 8a or 8c is checked.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the respondent cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it (*see above: Duties of Officer Serving This Order*).

The provisions in this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130) do not affect those of any other protective or restraining order in effect, including a criminal protective order. The provisions in any other existing protective order remain in effect.

Instructions to Clerk

This order must be served on all parties by the court, if it is made following the filing of a *Consent to Gun Violence Restraining Order and Surrender of Firearms* (form GV-125).

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate
[seal]

I certify that this *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order (CLETS-OGV)* (form GV-130) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT

7/20/2022

**Not approved by
the Judicial Council**

Respondent completes items ① and ②. Court completes items ③ and ④.

① Petitioner

a. Your Full Name or Name of Law Enforcement Agency:

- I am: A family member of the Respondent.
 An officer of a law enforcement agency *(a petition may be filed in the name of the law enforcement agency in which the officer is employed)*.
 An employer of the Respondent.
 A coworker of the Respondent.
 An employee or teacher of a secondary or postsecondary school that the Respondent has attended in the last 6 months.

Your Lawyer *(if you have one for this case)*:

Name: _____ State Bar No.: _____

Firm Name: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email. Law enforcement officer, give agency information.)*

Address: _____

City: _____ State: _____ Zip: _____ Fax: _____

Telephone: _____ Email: _____

② Respondent

Full Name: _____

Address *(if known)*: _____

City: _____ State: _____ Zip: _____

③ Court Hearing

The judge has set a court hearing date. *Court will fill in box below.*

The current restraining order stays in effect.



Date: _____ Time: _____ Name and address of court if different from above: _____

Dept.: _____ Room: _____ _____

You may attend your hearing remotely, such as by phone or videoconference. For more information, go to the court's website for the county listed above. To find the court's website, go to www.courts.ca.gov/find-my-court.htm.

This is a Court Order.



To the Petitioner:

4 Service on Respondent

Someone age 18 or older—**not you**—must serve a copy of the following forms on the Respondent

- *Request to Renew Gun Violence Restraining Order* (form GV-700);
- *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) (this form);
- *Response to Request to Renew Gun Violence Restraining Order* (form GV-720) (blank copy);

- a. The forms must be personally served on the Respondent _____ days before the hearing.
- b. The forms may be served by mail on the Respondent or the Respondent's lawyer _____ days before the hearing.

Date: _____

Judicial Officer

To the Respondent:

At the hearing, the judge can renew the current restraining order for between one and five years. You *must* continue to obey the current restraining order. At the hearing, you can tell the judge if you do not want the order against you renewed. If the restraining order is renewed, you *must* continue to obey the order even if you do not attend the hearing.

If you wish to make a written response to the request to renew the restraining order, you may fill out *Response to Request to Renew Gun Violence Restraining Order* (form GV-720). File the original with the court before the hearing and have someone age 18 or older—**not you**—mail a copy of it to the Petitioner at the address in ① at least _____ days before the hearing. Also file *Proof of Service by Mail* (form GV-250) with the court before the hearing or bring it with you to the hearing.

Requests for Accommodations



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Disability Accommodation Request* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Notice of Hearing on Request to Renew Gun Violence Restraining Order* (form GV-710) is a true and correct copy of the original on file in the court.

Date: _____

Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT**8/10/2022****Not approved by
the Judicial Council**

Prevailing party completes items ① and ②. If the Order is granted, the Petitioner is the prevailing party. If the Order is denied, the Respondent is the prevailing party.

① Petitioner

a. Your Full Name: _____

I am: A family member of the Respondent
 A law enforcement officer employed by
 (name of law enforcement agency): _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:**② Respondent**

Full Name: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

③ HearingThere was a hearing on (date): _____ at time: _____ a.m. p.m. Dept.: _____ Room: _____

(Name of judicial officer): _____ made the orders at the hearing.

These people **attended** the hearing:a. The Petitionerb. The Respondentc. The lawyer for the Petitioner (name): _____d. The lawyer for the Respondent (name): _____**This is a Court Order.**

4 Order on Request for Renewal

The request to renew the attached *Gun Violence Restraining Order After Hearing or Consent to Gun Violence Restraining Order* (form GV-130), originally issued on (date): _____, is:

- DENIED.** The attached order expires as stated in item ③ of the order.
- GRANTED.** The attached order is renewed for one year and will now expire:

on (date): _____ at (time): _____ a.m. p.m. or midnight

If no expiration date is written here, the order expires one year from the date of the hearing in item ③.

- a. The court finds by clear and convincing evidence that both of the following are true:
 - (1) Respondent continues to pose a significant danger of causing personal injury to **themselves** or another person by having in his or her custody or control, owning, purchasing, possessing, or receiving firearms, **firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, or magazines.**
 - (2) A gun violence restraining order remains necessary to prevent personal injury to Respondent or to another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the current circumstances.
- b. The facts as stated in the *Request to Renew Gun Violence Restraining Order* (form GV-700) and supporting documents, which are incorporated here by reference, establish sufficient grounds for the issuance of this Order. **Any reasons stated below apply as well.**

See the attached Form MC-025, *Attachment*.

- c. **To the restrained person:** If this order is renewed, it will last until the date and time noted above. If you have not done so already, you must surrender all firearms, ammunition, and magazines that you own or possess in accordance with section 18120 of the Penal Code. You may not have in your custody or control, own, purchase, possess, or receive, or attempt to purchase or receive a firearm, ammunition, or magazine, while this order is in effect. Pursuant to section 18185, you have the right to request one hearing **on an annual basis** to terminate this Order at any time during its effective period. You may seek the advice of an attorney as to any matter connected with the order.

This is a Court Order.



To the Prevailing Party:

5 Service of Order

Someone age 18 or older—**not you**—must serve a copy of this order on the other party.

- Order Granted**—The Respondent was present in court at the time the order was renewed. **No further service is required.**
- Order Granted**—The Respondent was not present in court at the time the order was renewed. **Personal service is required.** The Respondent must be personally served with this Order. *(After the Respondent has been served, file form GV-200, Proof of Personal Service, with the court clerk. For help with service, read form GV-200-INFO, What Is “Proof of Personal Service”?)*
- Order Denied—Service by Mail**—If the Petitioner was not present in court at the hearing, the Petitioner may be served with this Order by mail. *(After the Petitioner has been served, the person doing the mailing should fill out form POS-030, Proof of Service by First-Class Mail—Civil. File the form with the court clerk. For help with service by mail, read the Information Sheet on page 2 of form POS-030.)*

Date: _____

Judicial Officer

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Order on Request to Renew Gun Violence Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DRAFT
8/3/2022
Not approved by the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Petitioner/Requesting Agency

Name: _____

2 Respondent/Restrained Person

a. Your Name: _____

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email Address: _____

3 To the Restrained Person:

If a judge has ordered you to turn in, sell, or store your firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, and magazines, use this form to prove to the judge that you have obeyed their orders. Take this form to law enforcement officer or a licensed gun dealer to complete item 4 or 5. For more information on how to properly turn in your items, read form GV-800-INFO, How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, Ammunition, and Magazines?

4 To Law Enforcement

(Complete the section below. Keep a copy and give the original to the person in 2.)

Name of Law Enforcement Agency: _____

Name of Law Enforcement Agent: _____

Address: _____

Telephone: _____ Email Address: _____

Items Surrendered

a. Firearms, firearm parts, ammunition, and magazines transferred on:

Date: _____ Time: _____ a.m. p.m.

b. List of items (List all the items surrendered by the person in 2. You may attach a separate form from your agency (e.g., a property report), use item 6, or both. Check below if you have attached a separate form):

Separate form is attached. (If it does not include all surrendered items, list additional items in item 6.)

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

Signature of law enforcement agent _____



5 To Licensed Gun Dealer

(Complete the section below. Keep a copy and give the original to the person in ②.)

Name of Licensed Gun Dealer: _____

License number: _____

Address: _____

Telephone: _____ Email Address: _____

Items Stored or Sold

a. Firearms, firearm parts, ammunition, and magazines transferred on:

Date: _____ Time: _____ a.m. p.m.

b. List of items *(List all the items surrendered by the person in ②. You may attach a separate form (e.g., Department of Justice’s Report of Firearms Acquisition) or you may use item ⑥. Check below if you have attached a separate form):*

Separate form is attached. *(If it does not include all surrendered items, list additional items in item ⑥.)*

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

▶ Signature of licensed gun dealer _____

6 List of Items Surrendered

Firearms and firearm parts

	Make	Model	Serial Number, if there is one	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Ammunition and magazines

	Brand	Type	Amount	Sold	Stored	To be destroyed
(1)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Check here if there is not enough space above for your answer. Use a separate sheet of paper to list other items. Write “GV-800, item 6” at the top, and attach it to this form.

7 To the Restrained Person:

Besides the items listed on page 2 or in an attached form, do you have or own any other firearms (guns), firearm parts, ammunition, or magazines?

No

Yes (If yes, check one of the boxes below:)

a. I filed a Receipt of Firearms, Firearm Parts, Ammunition, and Magazines (form GV-800) or other proof for those items with the court on (date): _____

b. I am filing the proof for those firearms (guns), firearm parts, ammunition, or magazines along with this proof.

c. I have not yet filed the proof for the other firearms (guns), firearm parts, ammunition, or magazines. (Explain why not):

Your signature

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

Date: _____

Type or print your name



Sign your name

Your Next Steps

- After the form is complete, make two additional copies. Take the copies and original to the court clerk to file.
- If law enforcement served you with the restraining order, give a copy to the law enforcement agency that served you with the restraining order.
- Keep a copy for yourself.

Note that failure to file a receipt with the court and with the law enforcement agency is a violation of the court's order.

What items do I need to turn in, sell, or store?

You must turn in, sell, or store all of the following prohibited items that you have or control:

- Firearms, including any handgun, rifle, shotgun, and assault weapon;
- Firearm parts, including any receiver, frame or unfinished receiver or frame (also called “ghost guns”);
- Ammunition, also called ammo, including bullets, shells, cartridges, and clips; and
- Magazines (any ammunition feeding device, whether fixed or removable).

How do I properly turn in, sell, or store the prohibited items?

You must take them to:

- Law enforcement, who will accept all prohibited items and may store them or destroy them;

OR

- A licensed gun dealer, who can buy or store firearms. If you have firearm parts, ammunition, or magazines, call ahead for more information.

When do I have to turn in, sell, or store the prohibited items?

Immediately if law enforcement asks you for the items. Otherwise, within 24 hours.

Who can I turn in, sell, or store the prohibited items with?

Only law enforcement or a licensed gun dealer. You cannot give your prohibited items to a family member, friend, or anyone else.

Where can I sell the prohibited items?

At a licensed gun dealer in your area. You can search the internet for “Gun Dealers” or “Firearms Dealers” to find one. Make sure the dealer is licensed.

Do I have to pay a fee to store prohibited items?

You may have to pay a fee. Contact your local law enforcement agency or a licensed gun dealer about fees and whether they have space to store your items.

How do I turn in the prohibited items to law enforcement?

Call your local law enforcement agency to ask about their procedures. Unload your firearms and take a copy of the court order with you.

Do not bring firearms to court.

If I turn in the prohibited items to law enforcement, how long will they keep them?

It depends. There are procedures for getting your firearms back after the restraining order has expired. Ask the law enforcement agency for more information.

After I turn in the prohibited items to law enforcement, can I change my mind?

Yes. You are allowed to sell firearms, ammunition, and magazines to a licensed gun dealer. To do this, the gun dealer must present a bill of sale to your local law enforcement agency. The law enforcement agency will give the licensed gun dealer the items that you are selling.

Do I have to prove that I have turned in, sold, or stored the prohibited items?

Yes. Within 48 hours you must file a receipt with the court and the law enforcement agency showing that you have surrendered the prohibited items to a law enforcement agency or sold them to or stored them with a licensed gun dealer. You may use *Receipt for Firearms, Firearm Parts, Ammunition, and Magazines* (form GV-800) for this purpose.

Additional Questions?

Contact an attorney for legal advice. Call your local law enforcement agency, for example, your city police or county sheriff for their procedures.

Information about prohibited items and how to obey these orders is also available online.

<https://selfhelp.courts.ca.gov/respond-to-GV-restraining-order/obey-firearms-orders>.

For help in your area, contact:

[Local information may be inserted.]

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
1.	Giffords Law Center to Prevent Gun Violence by Julia Weber Implementation Director San Francisco	AM	On behalf of Giffords Law Center to Prevent Gun Violence, we appreciate the opportunity to comment on these important proposals. Thank you to Judicial Council staff and committee members for your work to make these proposals as responsive as possible.	The committee appreciates the information provided.
			On EPO-001, the reference to firearms being "searched for" has caused some confusion: does this mean searched for electronically in the Automated Firearms System (AFS) or physically searched for at the scene? It would be clarifying for both the officer requesting the EPO, and the court, and for anyone enforcing or protected by the order to know which occurred. Suggesting a clarifying checkbox with language indicating what is meant here be added to the form.	In light of this comment, the word "physically" has been added preceding the incidences of the phrase "searched for" on form EPO-002.
			Re: remote hearings, should specify that courts must make remote hearings available ("may" is ambiguous).	The committee declines this suggestion as the forms alert <i>litigants</i> that they "may" attend the hearing remotely not that courts may make remote hearings available.
			Headings here on the GVRO forms (firearms, parts, ammunition) should be consistent across all civil restraining forms to avoid confusion (unless the relevant statutes differ).	In light of this comment the headings related to surrendering firearms, firearm parts, ammunition, and magazines were made consistent with similar items domestic violence restraining orders forms.
			"Ghost guns" is a term that can be confusing and is not necessary when "firearm parts" and "firearms" are both used and under the definition, include unserialized firearms (and parts).	The committee declines this suggestion and includes "ghost guns" on the information sheets because it is a commonly used term to refer to unserialized firearms.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>On GV-020-INFO, reference to “and other items” is vague and confusing. Specify what items this is referring to so as to avoid confusion and increase the likelihood that restrained parties will/can comply.</p>	<p>In light of this comment, “other items” was removed from form GV-020-INFO and instead the prohibited items were listed out.</p>
			<p>The notice in bold “FAILURE TO FILE THIS RECEIPT IS A VIOLATION OF THIS ORDER” should appear on all firearm prohibiting orders where this is the case for consistency and avoiding the appearance that this order is somehow different from other orders where this is required (please share this comment with the relevant Advisory Committees handling other firearm-prohibiting ITCs).</p>	<p>The committee declines this comment as the other protective order forms advise the restrained person before the granted orders that “If you do not obey these orders, you can be arrested and charged with a crime.”</p>
			<p>On pages 18 and 19, the use of the phrase “prohibited items” may be confusing; recommended spelling out the items (firearms, firearm parts, ammunition, and magazines) where possible and more frequently to avoid being vague and unnecessarily confusing.</p>	<p>In light of this comment, the phrase “prohibited items” in item 6b of forms GV-030, GV-110, and GV-130, where the prohibited items are defined has been bolded to draw attention to it. The committee declines to specifically spell out the prohibited items later in the form as the item where the prohibited items are defined is included, and the heading also lists out the prohibited items.</p>
			<p>On GV-100-INFO, this paragraph should include reference to other prohibiting orders that protect a named party since the GVRO does not: Will the order protect me in other ways, such as keeping the person from coming near me? No, the only order the court can make is to force the person to not have the prohibited items listed above. If you</p>	<p>The committee declines this suggestion as the paragraph already contains the sentence: “For information on other civil restraining orders, please see” a California Courts Self-Help website. The link has been updated to the Courts new online Self-Help Guide.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>need personal protection from a family member, you should proceed under the Domestic Violence Prevention Act [propose adding] or obtain information about Civil Harassment Orders and orders that include protection for individuals and also prohibit the restrained person from having firearms.</p>	
			<p>Globally, consider avoiding the use of the term “surrender” and instead use “turn in” or “store or sell” where appropriate to explain relinquishment so that “surrender” is not misread or understood as requiring an individual to surrender themselves to law enforcement</p>	<p>In light of this comment, “surrender” was replaced with “turn in, store, or sell” where possible. In certain instances “surrender” was retained and parentheticals were used to explain the meaning at the first appearance of that word. Penal Code sections 18135, 18160, and 18180 contain required notices that must appear on the orders. Such notices contain the word “surrender” and do not define it. Accordingly, including “surrender” with a definition is preferable to removing it all together.</p>
			<p>P. 32 and 47 (and anywhere that is missing the reference), add “firearm parts” to list in 1. under “Warnings.” and change “surrender” to “turn in”</p>	<p>The committee declines this suggestion as the language on the forms is required by statute. (See Penal Code sections 18135, 18160, and 18180.)</p>
			<p>GV-800: title should be “Proof of Surrender of Firearms, Firearm Parts, Ammunition and Magazines” - reference to “firearms-related items” is vague and without statutory support.</p>	<p>In light of this comment, the title of form GV-800 has been updated to <i>Receipt for Firearms, Firearm Parts, Ammunition and Magazines</i>.</p>
			<p>Change description below to: “This form may be used to prove that the restrained party has relinquished (turned in) all firearms, firearm parts,</p>	<p>In light of this comment, the instructions in item 3 on form GV-800 has been updated to: “If a judge has ordered you to turn in, sell, or store your</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			ammunition, and magazines to a licensed gun dealer or law enforcement.”	firearms (guns), firearm parts (any receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531), ammunition, and magazines use this form to prove to the judge that you have obeyed their orders.”
			Please avoid “firearm related items” due to vagueness. Only used “prohibited items” when reference is clear to avoid confusion.	In light of this comment, the phrase “firearm-related items” has been removed from the form.
2.	Orange County Bar Association by Daniel S. Robinson President	AM	Incorporates ability to appear remotely for firearm hearing. Adds language reflecting new prohibition on ghost guns and parts. Item 7 in the GV-800 form currently has check boxes providing options for “Stored” and “Seized.” This seems confusing, as law enforcement will generally store an item after seizing it. It would be helpful to further define “Stored” and “Seized” (perhaps “stored privately” or “seized by law enforcement”).	In light of this and other comments, the checkboxes have been updated to “sold,” “stored,” and “to be destroyed.”
3.	State of California Department of Justice by Elizabeth Troxel Staff Services Manager II	N	Noticed that the "The “Warnings and Notices to the Respondent” did not include firearm parts. Not sure if you wanted to include in the Warning section.	The committee declines this suggestion as the language on the forms is required by statute. (See Penal Code sections 18135, 18160, and 18180.)
4.	Superior Court of San Bernardino	NI	Summary: The Civil and Small Claims Advisory Committee recommends the revision of 18 of the council’s Gun Violence forms to implement statutory changes in Assembly Bill 1057 (Stats. 2021, ch. 682) and Senate Bill 538 (Stats. 2021,	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>ch. 686) and to make other necessary changes to accurately reflect current law. Assembly Bill 1057 amends the definition of “firearms” for the purpose of gun violence restraining orders to include certain firearm parts. Senate Bill 538 permits parties and witnesses to attend hearings on gun violence restraining orders remotely. The proposal incorporates these new provisions into the council’s forms and makes other minor changes to gun violence protective order forms.</p> <p>Request for Specific Comments in addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <p>Does the proposal appropriately address the stated purpose? Yes</p>	
			<p>Are the check boxes in items 6 and 7 of form GV-800 for the status of each surrendered item (sold, stored, or seized) helpful? Are “sold,” “stored,” and “seized” the correct statuses or are there other, preferable terms? Yes. I don’t know any other preferable terms.</p>	<p>The committee appreciates the information provided, but in light of other comments, the checkboxes have been updated to “sold,” “stored,” and “to be destroyed.”</p>
			<p>Is the reorganization of form GV-800, so that there are now separate items to be completed by gun dealers (item 6) and law enforcement agencies (Item 7), rather than one item that could be completed by either, helpful? Or is a shorter form preferable? Yes, I think this is fine.</p>	<p>The committee appreciates the information provided, but in light of user testing, the committee recommends the original formatting for form GV-800.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>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. No</p> <p>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? Updated procedures. Updated packets.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes</p> <p>How well would this proposal work in courts of different sizes? Size should not impact.</p>	<p>The committee appreciates the information provided.</p>
5.	Superior Court of San Diego County by Mike Roddy Executive Officer	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Are the check boxes in items 6 and 7 of form GV-800 for the status of each surrendered item (sold, stored, or seized) helpful? Are “sold,” “stored,” and “seized” the correct statuses or are there other, preferable terms?</p>	<p>The committee appreciates the information provided.</p> <p>The committee appreciates the information provided, but in light of other comments, the checkboxes have been updated to “sold,” “stored,” and “to be destroyed.”</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>Yes. The check boxes are helpful. The terms “sold,” “stored,” and “seized” are appropriate.</p> <p>Is the reorganization of form GV-800, so that there are now separate items to be completed by gun dealers (item 6) and law enforcement agencies (Item 7), rather than one item that could be completed by either, helpful? Or is a shorter form preferable?</p> <p>Yes. The separate items are helpful.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p> <p>No.</p> <p>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?</p> <p>Updating internal procedures, local packets, case management entries, and training staff.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes, if the final versions of the forms are provided to the court by that time. The court provides local law enforcement with printed stock of EPO-002 forms (in triplicate). This will</p>	<p></p> <p>The committee appreciates the information provided, but in light of user testing, the committee recommends the original formatting for form GV-800.</p> <p>The committee appreciates the information provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>ensure that the court is able to update local packets and obtain printed stock.</p> <p>How well would this proposal work in courts of different sizes? It appears that the proposal would work for courts of all sizes.</p>	
			<p>OTHER COMMENTS: GV-030: Warnings and Notices to the Restrained Party (Page 3): Propose renaming to “Warnings and Notices to Restrained Person” to consistent with other restraining order forms.</p>	<p>In light of this comment, the “Party” was changed to “Person” in the heading.</p>
			<p>Propose deleting “To the restrained person:” from the first paragraph as it is redundant.</p>	<p>The committee declines this suggestion as the language on the forms is required by statute. (See Penal Code sections 18135, 18160, and 18180.)</p>
			<p>Propose using non-bold text as it makes the section difficult to read.</p>	<p>The committee declines this comment as the bold text draws attention to that language.</p>
			<p>GV-110: Warnings and Notices to the Respondent (Page 3): Propose using non-bold text as it makes the section difficult to read.</p>	<p>The committee declines this comment as the bold text draws attention to that language.</p>
			<p>GV-130: Warnings and Notices to the Respondent (Page 4): Propose using non-bold text as it makes the section difficult to read.</p>	<p>The committee declines this comment as the bold text draws attention to that language.</p>
			<p>GV-730: Item 4 Order on Request for Renewal: Propose using non-bold text in item 4c as it makes the section difficult to read.</p>	<p>The committee declines this comment as the bold text draws attention to that language.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<p>GV-800-INFO: After I give the prohibited items to law enforcement, can I change my mind? Propose that “firearms” in the last sentence be replaced with “prohibited items” to reflect that the items sold to a licensed gun dealer may be items other than firearms (i.e. ammunition).</p>	
6.	<p>Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) by TCPJAC/CEAC Joint Rules Subcommittee</p>	NI	<p>JRS Position: Agree with proposed changes.</p> <ul style="list-style-type: none"> • EPO-002. Consider the language “You may attend remotely, such as by phone or video conference.” This is consistent with other language found in the DV and GV forms. <ul style="list-style-type: none"> ○ Consider changing the phrase “CLETS-EGV” to “California Law Enforcement Telecommunications – EGV.” • No comments on GV-009 • No comments on GV-020 • No comments on GV-020-INFO • No comments on GV-030 • No comments on GV-100 • No comments on GV-100-INFO • No comments on GV-109 	<p>The committee appreciates the information provided.</p> <p>The committee declines this suggestion as there is insufficient space on the form to include the phrase “such as by phone or video conference.” The committee notes that the form contains the following language: “You may attend the hearing remotely (Check your court’s website for instructions).”</p> <p>The committee declines this suggestion as the parenthetical “CLETS” in the form title is required by the California Department of Justice for any forms that are entered into CLETS.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR22-23

Protective Orders: Gun Violence Forms Implementing Statutory Amendments Permitting Remote Appearances and Modifying the Definition of Firearms (Revise forms EPO 002, GV 009, GV 020, GV 020 INFO, GV 030, GV 100, GV 100 INFO, GV 109, GV 110, GV 116, GV 120, GV 120 INFO, GV 125, GV 130, GV 710, GV 730, GV 800, and GV 800 INFO)

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

	Commenter	Position	Comment	DRAFT Committee Response
			<ul style="list-style-type: none">• No comments on GV-110• No comments on GV-116• No comments on GV-120 and GV-120-INFO• No comments on GV-125• No comments on GV-130• No comments on GV-170• No comments on GV-730 No comments on GV-800 and GV-800-INFO	

DRAFT

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee action requested [Choose from drop down menu below]:
Recommend JC approval (has circulated for comment)

Rules Committee Meeting Date: August 23, 2022

Title of proposal: Juvenile Law: Restraining Orders

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

Amend Cal. Rules of Court, rules 5.620, 5.625, and 5.630; repeal rule 5.495; adopt forms JV-258, JV-259, JV-260, JV-265, JV-268, JV-272, and JV-274; revise form DV-800/JV-252 and renumber as form DV-800/JV-270; revise form DV-800/JV-252-INFO and renumber as form DV-800-INFO/JV-270-INFO; revise forms JV-245, JV-247, JV-250, and JV-255; and revise form JV-251 and renumber as forms JV-251 and JV 253

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kerry Doyle, 415-865-8791, kerry.doyle@jud.ca.gov

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

Approved by Rules Committee date: November 2, 2021

Project description from annual agenda: Item 1. As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee's purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council's consideration and will take action only where necessary to allow courts to implement the legislation efficiently.

Item 1d. SB 320 (Eggman) Domestic violence protective orders: possession of a firearm (Ch. 685, Stats. of 2021))

Changes court procedures for issuing domestic violence restraining orders in order to better effectuate the requirement in existing law that a party subject to such an order must relinquish their firearms and ammunition.

Codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a domestic violence restraining order and requires the court to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm or ammunition relinquishment order.

Item 1e. SB 374 (Min) Protective orders: reproductive coercion (Ch. 135, Stats. of 2021)

Revises existing protections against a third party's disclosure of a minor's protected information under a domestic violence restraining order.

Item 7. Juvenile Protective Order Form Revisions to Implement Statutory Changes and Plain Language

Project Summary: Recently enacted legislation redefines what constitutes domestic violence to include "coercive control" as an example of disturbing the peace. A proposal to implement those changes on the forms used under the DVPA was circulated in the spring 2021 cycle and included some other formatting and organizational changes intended to make the forms more accessible to litigants. Similar changes are required to the protective order forms for orders issued by juvenile courts pursuant to Welfare and Institutions Code section 213. Additionally, some of the juvenile protective order forms are not in the more accessible plain language format and would benefit from being reformatted to ensure that all parties understand the orders and the consequences for violating them.

Ongoing Projects Item 7. As lead of the Protective Order Working Group, the committee worked on joint issues with other advisory committees, including implementation AB 1621 on "ghost guns." Note that AB 1621, effective June 30, 2022, superceded AB 1057.

If requesting July 1 or out of cycle, explain:

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

Information for JC Staff regarding form translations:

- *List any amended forms in this proposal that have already been translated: JV-245, JV-247, JV-250, JV-251, and JV-255*
- *List any new forms that require translation by statute or that you will request to be translated: TBD*



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25

For business meeting on September 20, 2022

Title	Agenda Item Type
Juvenile Law: Restraining Orders	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 5.620, 5.625, and 5.630; adopt forms JV-258, JV-259, JV-260, JV-265, JV-268, JV-272, and JV-274; revise forms JV-245, JV-247, JV-250, and JV-255; and revise form JV-251 and renumber as forms JV-251 and JV-253	January 1, 2023
	Date of Report
	August 16, 2022
	Contact
	Kerry Doyle, 415-865-8791 kerry.doyle@jud.ca.gov
Recommended by	
Family and Juvenile Law Advisory Committee	
Hon. Stephanie E. Hulsey, Cochair	
Hon. Amy M. Pellman, Cochair	

Executive Summary

The Family and Juvenile Law Advisory Committee recommends amending three rules of the California Rules of Court, and adopting eight forms and revising five forms, to conform to recent statutory changes enacted by Senate Bill 1141 (Rubio; Stats. 2020, ch. 248) and Senate Bill 374 (Min; Stats. 2021, ch. 135) regarding the definition of “disturbing the peace” in restraining order cases and Senate Bill 320 (Eggman; Stats. 2021, ch. 685) and Assembly Bill 1621 (Gipson; Stats. 2022, ch. 76) regarding firearms and ammunition prohibitions. The proposal also provides separate application and order forms relating to restraining orders against a juvenile and includes one new proof of service form to ensure the juvenile restraining orders are entered into the California Law Enforcement Telecommunications System (CLETS) database. At the same time, the committee recommends converting the forms to plain-language forms so that they are consistent with other restraining order forms and are easier to understand, complete, and enforce.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

1. Amend rule 5.620 to use the new plain-language titles of the forms referenced in the rule;
2. Amend rule 5.625 to add two new forms on which to prepare restraining orders when the restrained person is a child in a juvenile justice (delinquency) proceeding and to use the new plain-language titles of the other forms referenced in the rule;
3. Amend rule 5.630 to add three new forms to request and prepare restraining orders when the restrained person is the child in a juvenile justice (delinquency) proceeding, use the new plain-language titles of the other forms referenced in the rule, and make other clarifying changes;
4. Adopt *Order on Request to Reschedule Restraining Order Hearing* (form JV-253) (previously part of form JV-251) as a mandatory form for use when the court grants or denies a request to reschedule a restraining order hearing;
5. Adopt *Request for Juvenile Restraining Order Against a Child* (form JV-258) as a mandatory form for use when requesting a restraining order against a child in a juvenile justice (delinquency) proceeding;
6. Adopt *Response to Request for Juvenile Restraining Order Against a Child* (form JV-259) as a mandatory form for a child in a juvenile justice proceeding to use if someone has asked for a restraining order against them and they want to respond in writing;
7. Adopt *Notice of Court Hearing and Temporary Restraining Order Against a Child* (form JV-260) as a mandatory form to provide notice to a child in a juvenile justice proceeding of a hearing on a request for a restraining order against them and to make temporary orders pending that hearing;
8. Adopt *Juvenile Restraining Order After Hearing—Against a Child* (form JV-265) as a mandatory form to make orders for a child in a juvenile justice proceeding;
9. Adopt *Proof of Personal Service* (form JV-268) as a mandatory form to inform the court of the documents given to the party sought to be restrained;
10. Adopt *Prohibited Items Findings and Orders* (form JV-272) as a mandatory form to use for findings that the restrained person has firearms or ammunition prohibited by the restraining order; set a hearing to review compliance; and to tell the restrained person if they do not provide proof of compliance, the prosecuting agency will be notified;

11. Adopt *Noncompliance With Firearms and Ammunition Order* (form JV-274) as a mandatory form to provide notice of noncompliance to the prosecuting agency and notice of outstanding warrants to the law enforcement agency;
12. Revise *Request for Restraining Order—Juvenile* (form JV-245) to include items about notice, firearm parts and ammunition, and coercive control, to convert the form to plain-language format, and to retitle the form as *Request for Juvenile Restraining Order*;
13. Revise *Answer to Request for Restraining Order—Juvenile* (form JV-247) to include items about firearm parts and ammunition, to provide the person responding with an opportunity to state whether they agree with the requested orders, to convert the form to plain-language format, and to retitle the form as *Response to Request for Juvenile Restraining Order*;
14. Revise *Notice of Hearing and Temporary Restraining Order—Juvenile* (form JV-250) to include items about firearm parts, ammunition, and coercive control; convert the form to plain-language format and retitle the form as *Notice of Court Hearing and Temporary Restraining Order—Juvenile*;
15. Revise *Request and Order to Continue Hearing* (form JV-251) to make it a request only, to convert it to plain-language format, and to retitle it as *Request to Reschedule Restraining Order Hearing*;
16. Revise *Restraining Order—Juvenile* (form JV-255) to include items about firearm parts, ammunition, and coercive control; convert the form to plain-language format; and retitle it as *Juvenile Restraining Order After Hearing*;

The proposed amended rules and new and revised forms are attached at pages 17-79.

Relevant Previous Council Action

The Judicial Council provides forms and instructions for use in juvenile protective order matters. The forms have been revised when changes to the law required revisions and to respond to suggestions made by the public, judicial officers, and court professionals. The juvenile restraining order forms (JV-250 and JV-255) were last revised in 2019. The request form (JV-245) was last revised in 2017. The request to continue form (JV-251) was last revised in 2016. The response form (JV-247) was last revised in 2014.

The Judicial Council adopted what are now rules 5.620, 5.625, and 5.630, effective January 1, 2000, as rules 1429.1, 1429.3, and 1429.5, respectively. The three rules were renumbered effective January 1, 2007. To reflect statutory changes, rule 5.620 has been amended three times, rule 5.625 has been amended two times, and rule 5.630 has been amended four times.

Analysis/Rationale

Changes already approved by the Judicial Council

The restraining order forms in this proposal¹ include the language to implement SB 1141’s definition of “coercive control” in domestic violence restraining orders as approved by the Judicial Council for the council’s Domestic Violence (DV) forms series, effective January 1, 2022.² Welfare and Institutions Code section 213.5,³ which governs protective orders issued by the juvenile court, distinguishes between protective orders based on domestic violence and other protective orders.⁴ The Family and Juvenile Law Advisory Committee (hereafter “the committee”) recommends that the same language approved for the DV forms be used on the juvenile forms, and to specify on those forms that the “coercive control” items only apply to cases involving domestic violence. The new language includes the definitions of disturbing the peace and coercive control on the order forms. The only definition in the coercive control items that has not yet been reviewed by the Judicial Council is the definition of “reproductive coercion,” which is contained in new legislation (SB 374) and is discussed below.

The forms in this proposal also limit questions about physical characteristics on the request forms (forms JV-245 and JV-258), as approved by the Judicial Council for the DV forms effective January 1, 2022, for the same reasons laid out there—to protect privacy interests.⁵

The item specifically listing existing criminal protective orders has been removed from the order forms (item 12 on the current JV-250 and item 7 on the current JV-255), as approved by the Judicial Council for the DV forms, effective January 1, 2022.⁶

¹ JV-250, JV-255, JV-260, and JV-265.

² See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence: Forms That Implement New Laws* (Sept. 3, 2021), <https://jcc.legistar.com/View.ashx?M=F&ID=9785460&GUID=13510582-8DBB-4B19-AD68-118880969612>.

³ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

⁴ Specifically, section 213.5(a) allows for application for an order under Code of Civil Procedure section 527 or under Family Code section 6300, if related to domestic violence.

⁵ The questions regarding the proposed restrained person are limited to name, gender, race, and age, with date of birth optional, consistent with what is required by the Department of Justice to register a protective order into CLETS. All other information regarding the restrained person, including address and physical characteristics, will be requested only on the order forms and *Confidential CLETS Information* (form CLETS-001). A “nonbinary” option will be included for gender. See *supra* note 2, at p. 4.

⁶ The committee concluded that this item was unnecessary because criminal protective orders do not automatically have priority in enforcement over other restraining orders, as they did before the passage of Assembly Bill 176 (Campos; Stats. 2013, ch. 263). In response to an alleged violation, a law enforcement officer would need to check CLETS for the existence of any restraining order between the parties and would have information in real time that would be more accurate and complete than information provided on the order forms. See *supra* note 2, at p. 8.

Reproductive coercion

Senate Bill 374 adds “reproductive coercion” as an example of “coercive control” in actions to enjoin domestic violence.⁷ To implement SB 374 in juvenile restraining orders, the committee is recommending revising the restraining order forms with a definition of reproductive coercion. Under Family Code section 6320(c)(5), reproductive coercion is defined as

control over the reproductive autonomy of another through force, threat of force, or intimidation, and may include, but is not limited to, unreasonably pressuring the other party to become pregnant, deliberately interfering with contraception use or access to reproductive health information, or using coercive tactics to control, or attempt to control, pregnancy outcomes.

The committee recommends simplifying the statutory language as follows: “[c]ontrolling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.”⁸

Additionally, since the new definitions of disturbing the peace and coercive control were only added to the Domestic Violence Prevention Act, and not to other protective order statutes, the committee recommends limiting those definitions to cases based on domestic violence.⁹ While rule 5.630 states that the definition of abuse in Family Code section 6203 applies to orders issued under section 213.5, the committee concluded that it is the relationship of the persons involved that determines whether a restraining order is based on domestic violence. The behaviors listed in the definition of abuse in Family Code section 6320 can be categorized as domestic violence only if the person doing the abusing falls within the relationship categories set forth in Family Code section 6211.¹⁰ The committee recommends limiting the new definitions of disturbing the peace and coercive control to those cases where the application is based on domestic violence. In order for the applicant to know whether the application is based on domestic violence, the committee recommends adding a reference to, and hyperlink for, *Can a Domestic Violence*

⁷ Fam. Code, § 6320(c).

⁸ See forms JV-250, item 10; JV-255, item 12; JV-260, item 10; and JV-265, item 12.

⁹ Fam. Code, § 6320(c). See forms JV-245, item 7; JV-250, item 10; JV-255, item 12; JV-258, item 7; JV-260, item 10; and JV-265, item 12.

¹⁰ Family Code section 6211 defines domestic violence as abuse perpetrated by 1) a spouse or former spouse; 2) a cohabitant, as defined in Family Code section 6209; 3) a person with whom the respondent is having or has had a dating or engagement relationship; 4) a person with whom the respondent has had a child; 5) a child who is the subject of a Uniform Parentage Act, where the presumption applies that the male parent of the child to be protected; and 6) any other person related by consanguinity or affinity within the second degree.

Restraining Order Help Me? (form DV-500-INFO), which contains a plain language definition of domestic violence.¹¹

Firearms Relinquishment

Effective January 1, 2022, SB 320 codifies rule 5.495, *Firearm relinquishment procedures*, and provides additional requirements for courts to comply with when the court receives information that a restrained person has or may have firearms or ammunition in their possession or control.¹² New forms are needed to allow the court to (1) give notice of a determination regarding possession of firearms or ammunition by the restrained person, (2) set a compliance review hearing, (3) order the clerk of the court to provide notice of noncompliance to prosecuting agency, and (4) include an order for the restrained person to surrender ammunition.

Two new forms are recommended for the council to adopt, and they are discussed below in the section “Proposed new forms”.

Firearm parts

Section 213.5 provides that when a court issues a protective order under that section, section 6389 of the Family Code, which governs the possession of firearms and ammunition, applies.

Effective on June 30, 2022, AB 1621 adds a definition of “firearm” under the Domestic Violence Prevention Act that includes firearm parts, specifically receivers, frames, and “firearm precursor parts” as defined under Penal Code section 16531(a). The change is intended to include “ghost guns” (unserialized and untraceable firearms that can be bought online and assembled at home) in the items that restrained people cannot possess and must surrender.¹³ This means that a restrained person may not have these parts or homemade firearms, for the duration of the order. AB 1621 was enacted as an urgency statute, and therefore went into effect immediately upon approval by the Governor on June 30, 2022. AB 1621 superseded AB 1057 (Petrie-Norris; Stats. 2021, ch. 682), which would have also added firearm parts to the definition of firearm under the Family Code. A proposal to implement AB 1057 was included as part of this proposal that was released for public comment on April 8, 2022. The committees believe that the same changes to the forms needed to implement AB 1057 would be appropriate to implement AB 1621.

This new definition of firearm will also apply to gun violence, juvenile, other civil, and criminal restraining orders. Because this bill impacts several protective order forms series, this committee worked with the Civil and Small Claims Advisory Committee to harmonize the changes to the extent possible. Both committees, and the Criminal Law Advisory Committee, recommend referring to receivers, frames, and unfinished receivers and frames as “firearm parts” rather than

¹¹ Since nearly all parties in juvenile court have attorneys, there is no corresponding informational form for juvenile restraining orders. Form DV-500-INFO is contained in the committee’s proposal *Domestic Violence: Rule and Form Changes to Implement New Laws* (item SPR22-20) at www.courts.ca.gov/documents/spr22-20.pdf.

¹² Family Code sections 6306, 6322.5, and 6389.

¹³ Assem. Com. On Public Safety Rep. on Assem. Bill No. 1621 (2021-2022 Reg. Sess.) as amended March 24, 2022, pp. 5-7.

“firearms” or “firearm precursor parts.” The committees also propose using the nomenclature “ghost guns” on the information forms.

Plain-language forms

In addition to the changes needed to implement SB 1141, SB 374, SB 320, and AB 1621, the committee is recommending converting the juvenile protective order forms to the council’s plain-language format. All other civil protective order form series types (e.g., for domestic violence, civil harassment, and elder abuse protective orders) are in this format.

The committee recommends converting the juvenile restraining orders to plain language for several reasons. First, the plain-language forms, although longer than traditional formatted council forms, use language that is easier for both the protected person and restrained person to understand. Second, it may be easier for judicial officers who are new to the juvenile court or who have multiple assignments to review and use the plain-language forms, since they may be familiar with the other protective order types that are currently in plain-language format. Additionally, law enforcement officers are accustomed to seeing and enforcing the plain-language forms, so converting the juvenile forms to the same format will make them easier to enforce. Places like daycare facilities and schools are also used to seeing protective orders in the plain-language format, which would make the juvenile restraining orders in plain language easier to understand by people who care for children who may be protected by the orders.

Restraining orders against a child

The orders that a court can make restraining a child in a juvenile justice (delinquency) proceeding are very limited compared to the orders a court can make protecting a child in the juvenile court.¹⁴ Many of the orders on the current *Notice of Hearing and Temporary Restraining Order—Juvenile* (form JV-250) and the current *Restraining Order—Juvenile* (form JV-255) cannot be made in a juvenile justice case when the child is the restrained party. To clarify what orders the court can make in these cases, the committee recommends creating a new form containing only the limited orders a court can make, and law enforcement can enforce, restraining a child under section 213.5(b). Additionally, the basis for granting the restraining order is limited in section 213.5(b) to the protected party at risk because of the restrained person’s actions.

Currently, the orders restraining a child are contained in one item on the protective orders (item 6 on JV-250 and item 4 on JV-255), while most of the other orders on those order forms cannot be made against a restrained child, including the stay-away and move-out orders. The limitations make the current orders in juvenile justice cases difficult to issue, understand, and enforce. The current request (form JV-245) does not specify which of the orders in the request are allowable against a child under the controlling statute for juvenile justice cases or have an option to request only those orders. The committee is therefore recommending creating new, separate request and

¹⁴ § 213.5(b). The juvenile court may only issue orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child (*ibid.*).

order forms to restrain juveniles in juvenile justice cases. This would achieve a goal of this proposal: to develop forms that are easier to issue, understand, and enforce.

Consistency with Domestic Violence Prevention Act (DVPA) forms

The committee made many items in the juvenile forms consistent with the DVPA forms. The committee considered making all items the same but given the different controlling statutes and differences in DVPA and juvenile court proceedings, this was not always appropriate. For example, there are no move-out or stay-away orders like those contained in the DV order forms in the proposed protective orders against a child because section 213.5(b) does not authorize those orders against a minor. Another example is that the check boxes in item 3a on the request forms JV-245 and JV-258—by which an applicant may indicate from a list of abusive behaviors which ones apply in this action—do not appear on the DVPA request form (form DV-100), where the behaviors are presented as examples only. Since check boxes are on a similar item in the current form JV-245, the committee concluded that these items should be different on the JV forms series. Additionally, the list has many fewer examples of abusive behavior to choose from than the long list of examples on the DVPA forms. Since nearly all parties in dependency proceedings have attorneys, the committee concluded that a shorter list with fewer examples of more common types of abuse was appropriate for the juvenile forms.¹⁵ Also, the social worker or probation officer prepares written reports for the juvenile court that will describe the history and nature of the abuse. Items on the proposed request forms ask if there is a report that supports the request filed with the court (form JV-245, item 3c; form JV-258, item 3b). Because reports are not typically prepared for the court for domestic violence restraining order hearings, a similar item does not appear on the parallel DVPA forms.

Additionally, there are many orders the court can make under the DVPA that the court cannot make under section 213.5, such as control of property and payment for expenses caused by the abuse; these orders do not appear on the juvenile restraining order forms. Conversely, section 213.7 provides that if a person is restrained under section 213.5, the court must order that person to be prohibited from taking any action to obtain the address or location of a protected person or a protected person's family members, caretakers, or guardians, unless there is good cause not to make the order. The provision regarding a protected person's family members, caretakers, or guardians is not included in the DVPA; thus, that order is included on the juvenile restraining order forms, but not on the DVPA forms.

The current DVPA forms use the word “continue” for forms regarding changing a court date. Since the committee is proposing to convert the juvenile forms to plain language, the committee concluded that “reschedule” was easier to understand than “continue” and recommends using that phrase for the forms to request and order a new hearing date. The use of the term “reschedule” instead of “continue” will be considered in the future for all of the committee's plain-language restraining order forms.

¹⁵ To limit the list to more common types of abuse, the committee decided to not add a choice for reproductive coercion to the list of abusive behaviors on the juvenile forms, but did include an example of it on the DVPA forms.

Also of note, new Family Code section 6306(f) does not apply to juvenile court restraining orders issued under section 213.5. Therefore, the new requirement that the court notify law enforcement about noncompliance with a firearms prohibition does not apply and was not included in the juvenile forms implementing SB 320,¹⁶ although the items are reflected in the revisions to the DVPA forms the committee is recommending concurrently with this proposal.

Other orders

The committee considered retaining the “Other orders” item in the restraining order forms but decided to remove it. The language in section 213.5 does not specify that the court can make orders that are not authorized in the statute. The committee agreed that removing this item from the form does not prevent the juvenile court from making other orders outside of the restraining order process. The juvenile court has broad discretion to make “any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child” as part of the child’s ongoing dependency case.¹⁷ The committee also agreed that certain orders, such as counseling or a batterers’ intervention program, could be included elsewhere, in a parent’s case plan, for example, or in a restrained child’s conditions of probation.

Exclusive jurisdiction

Section 213.5 gives the juvenile court exclusive jurisdiction to issue a restraining order to protect the child who is the subject of a petition under section 300, or any other child in the household.¹⁸ Section 213.5 is a very dense statute that is difficult to understand. To emphasize when the court has exclusive jurisdiction in these proceedings, the committee recommends adding this statutory provision to the rules of court.¹⁹

Proof of service

Currently, *Proof of Service—Juvenile* (form JV-510) may be used by parties in juvenile proceedings as the form to record proof of service of the juvenile restraining order forms. That form, however, is not specific to the restraining order process. It also does not have a CLETS identifier on the form that indicates to court clerks that the form must be entered into CLETS. The committee recommends adopting a new proof of service form specific to the juvenile restraining order series with a CLETS identifier, which would make it easier for courts to identify the proofs of service that should be entered into this important database. It is critical that these proofs of service be entered into CLETS so that law enforcement can confirm the existence and content of the orders on the scene of an alleged violation of the order.

Conflicting orders

The committee also recommends revising “Conflicting Orders—Priorities for Enforcement” found on the last page of the new and revised restraining order forms. The Criminal Law

¹⁶ This includes forms JV-255, item 9; JV-256, item 9; JV-272, items 2 and 3; and JV-274, item 3.

¹⁷ § 362(a).

¹⁸ § 213.5(a).

¹⁹ See proposed amended rule 5.630(a) included in this report.

Advisory Committee identified that the existing language does not accurately reflect the requirements under Penal Code section 136.2(e)(2), which prioritizes enforcement of criminal protective orders in pending cases for domestic violence offenses, specified sex offenses, and offenses requiring sex offender registration over a civil protective order against the same defendant. The specified sex offenses and offenses requiring sex offender registration were added as priorities in Assembly Bill 1498 (Stats. 2014, ch. 665). Further, Assembly Bill 1171 (Stats. 2021, ch. 626) repealed section 262 on spousal rape and amended section 136.2(e)(2) to include “former Section 262.” Currently, all restraining orders include the same language regarding priority for enforcement. This new language would be used on all the order forms as they become due for revision.

Proposed rules

Rule 5.620

The committee recommends amending rule 5.620, relating to orders that a court may make after a petition has been filed to make a child a dependent of the court under section 300, including restraining orders, to use the new plain-language titles of the restraining order forms referenced in the rule.

Rule 5.625

The committee recommends amending rule 5.625, relating to orders that a court may make after a petition has been filed to make a child a ward of the court under sections 601 or 602, including restraining orders, to add two new forms (discussed below) as alternative forms to prepare restraining orders on when the restrained person is the child in a juvenile justice proceeding and to use the new plain-language titles of the other forms referenced in the rule.

Rule 5.630

The committee recommends amending rule 5.630, relating to juvenile court restraining orders, to add three new forms (discussed below) as alternative forms on which to request and prepare restraining orders when the restrained person is the child in a juvenile justice proceeding, and to use the new plain-language titles of the other forms referenced in the rule that are being revised in this proposal.

The committee also recommends amending

- Subdivision (a) to clarify that the juvenile court has exclusive jurisdiction under section 213.5 to issue a restraining order to protect the child who is the subject of a petition under section 300, or any other child in the household. The committee also recommends amending it to repeat the court’s authority in section 304 to, on its own motion, issue an order as provided for in section 213.5, or as described in Family Code section 6218;

- Subdivision (b) (re-lettered as subdivision (c) in the recommended rule)²⁰ to include the procedure to follow if the court issues a temporary restraining order by oral motion;
- Subdivision (d) (now included in newly re-lettered subdivision(c)) to reflect the holding in the California Supreme Court case *In re E.F.*²¹ that section 213.5 incorporates the notice requirements in Code of Civil Procedure section 527(c) for applications not based on domestic violence;
- Subdivision (h) (re-lettered as (g) in the recommended rule) relating to firearms relinquishments, to remove the reference to the procedures in rule 5.495 and replace it with those in Family Code sections 6322.5 and 6389. The committee also recommends amending it to add “ammunition,” as required by SB 320; and
- Subdivision (k) (re-lettered as (j) in the recommended rule) to remove the repealed statutory language that the criminal records search requirements only apply in courts identified by the Judicial Council as having resources available to perform the searches.

Proposed revised forms

The committee recommends revising four forms to include the new definition of “disturbing the peace” for petitions based on domestic violence from SB 1141 and SB 374, retitling the forms, and converting them to plain language.²²

- *Request for Juvenile Restraining Order* (form JV-245)
- *Response to Request for Juvenile Restraining Order* (form JV-247)
- *Notice of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250)
- *Juvenile Restraining Order After Hearing* (form JV-255)

The committee also recommends revising form JV-245 to include an item about notice of the request for a restraining order for petitions *not* based on domestic violence to reflect the holding in *In re E.F.* that section 213.5 incorporates the notice requirements in Code of Civil Procedure section 527(c). In order for the applicant to know whether the application is based on domestic violence, the committee recommends adding a reference to, and hyperlink for, *Can a Domestic*

²⁰ The recommended rule is also reorganized so that current subdivision (c) Definition of abuse, has been re-lettered as (b) and placed ahead of current subdivision (b) Application for restraining orders (now re-lettered as (c). And current subdivision (d) has been merged into re-lettered subdivision (c). The remaining subdivisions have also been re-lettered to reflect this change.

²¹ (2021) 11 Cal.5th 320.

²² The format of the forms is different in several ways from the traditional Judicial Council plain-language style but is the same as that in DV forms approved by the council effective January 1, 2022. The differences are described in more detail in the invitation to comment on those forms prior to the council’s action. See *Domestic Violence: Revising Forms to Implement New Laws* (item SPR21-14) at www.courts.ca.gov/documents/spr21-14.pdf.

Violence Restraining Order Help Me? (form DV-500-INFO), which contains a plain language definition of domestic violence.²³

In developing the plain-language forms, the committee paralleled the format for the forms used for domestic violence restraining orders, whenever possible. The plain-language changes include simplifying language, eliminating unnecessary repetition, providing more white space on each page, reorganizing content, and minimizing the use of italics. These changes will make the forms easier to understand, complete, and enforce, as discussed above under “Plain-language forms.”

The current *Answer to Request for Restraining Order—Juvenile* (form JV-247) is an ineffective way to respond to such a request. It only allows the person to agree or not agree with the personal conduct order, the move-out order, or the stay-away order. The multiple other orders that can be made are not included on the form. The committee recommends revising this response form and adopting another one for use when the restrained person is a child in a juvenile justice proceeding. Both of these forms are modeled after the current DV response form. Revised form JV-247 would include all the potential orders the petitioner may request and separate items for the person filling out the form to indicate for each requested order why they disagree with the request, or to describe a different order they would agree to. The current form includes only a single item where the person can state why the court should not make a restraining order against them. The committee also recommends retitling the form as *Response to Request for Juvenile Restraining Order*. (The proposed new form for use when the restrained person is a child in a juvenile justice proceeding is discussed below.)

Forms Addressed in a Separate Proposal

In order to obtain as much comment as possible, the committee circulated two forms that are used for both domestic violence and juvenile law restraining orders in both this proposal and a separate proposal, *Domestic Violence: Rule and Form Changes to Implement New Laws* (item SPR22-20)²⁴ These forms are *Proof of Firearms Turned In, Sold, or Stored* (form DV-800/JV-252) and *How Do I Turn In, Sell, or Store My Firearms?* (form DV-800-INFO/JV-252-INFO). Both circulated proposals also recommended repeal of rule 5.495, relating to firearms relinquishment procedures, as that rule is now codified in the provisions of SB 320. The comments received on these two proposals regarding these forms were not substantively different. The committee synthesized the comments, and these recommended revisions are contained in this committee’s companion report, *Domestic Violence: Rule and Form Changes to Implement New Laws*, for the September 20, 2022, council meeting.²⁵

²³ Since nearly all parties in juvenile court have attorneys, there is no corresponding informational form for juvenile restraining orders. Form DV-500-INFO is contained in the committee’s proposal *Domestic Violence: Rule and Form Changes to Implement New Laws* (item SPR22-20) at www.courts.ca.gov/documents/spr22-20.pdf.

²⁴ *Domestic Violence: Rule and Form Changes to Implement New Laws* (item SPR22-20) at www.courts.ca.gov/documents/spr22-20.pdf.

²⁵ Judicial Council reports are attached to the agenda items for each Council meeting and may be viewed at <https://jcc.legistar.com/Calendar.aspx>.

Proposed new forms

Request for Juvenile Restraining Order Against a Child (form JV-258), Notice of Court Hearing and Temporary Restraining Order Against a Child (form JV-260), and Juvenile Restraining Order After Hearing—Against a Child (form JV-265)

The committee is recommending that forms JV-258, JV-260, and JV-265 be adopted for mandatory use to request and issue restraining orders when the restrained person is the child in a juvenile justice proceeding. As discussed above, the orders that a court can make restraining a child in a juvenile justice case are very limited in section 213.5(b),²⁶ so a separate set of forms is appropriate. Many of the orders on the current *Notice of Hearing and Temporary Restraining Order—Juvenile* (form JV-250) and the current *Restraining Order—Juvenile* (form JV-255) cannot be made in a juvenile justice case when the child is the restrained party. To clarify what orders the court can make in these cases, the committee recommends adopting new request and order forms with the limited orders allowed under section 213.5(b).

The committee also recommends that the forms include the new provisions about ammunition from SB 320, as well as the new provisions about gun parts from AB 1621. The committee recommends that form JV-258 include an item about notice of the request for a restraining order for petitions not based on domestic violence to reflect the holding in *In re E.F.* that section 213.5 incorporates the notice requirements in Code of Civil Procedure section 527(c).

Response to Request for Juvenile Restraining Order Against a Child (form JV-259)

The committee recommends adopting this form for mandatory use for a child in a juvenile justice proceeding to use to respond to a request for a restraining order against them and to indicate whether they agree with the requested orders. This form is modeled after the current DV response form and includes all the potential orders that have been requested and, for each, space for the child to indicate why they agree or disagree, or to describe a different order they would agree to.

Request to Reschedule Restraining Order Hearing (form JV-251); Order on Request to Reschedule Restraining Order Hearing (form JV-253)

The committee recommends separating the current *Request and Order to Continue Hearing* (form JV-251) into two individual plain-language forms—one for the request (form JV-251) and one for the order (new form JV-253). Creating two forms will allow for both the request and the order to be filed separately with the court. This should make filing easier for the court clerks as the current form could be filed at two separate times (first for the request and then again for the order), but only has one box for the date the form was filed.

²⁶ The juvenile court may issue orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child (§ 213.5(b)).

Proof of Personal Service (form JV-268)

The committee recommends that this form be adopted for mandatory use to file with the court to show what forms were served on the restrained person and when. Please see the discussion of this form under “Proof of service,” above.

Prohibited Items Finding and Orders (form JV-272)

The committee recommends that this form be adopted for mandatory use to attach to the temporary restraining order forms JV-250 or JV-260, or *Order on Request to Reschedule Hearing* (form JV-254). It would implement SB 320 and AB 1621, contain a finding the court can make that the restrained person has prohibited items (firearms, firearm parts, or ammunition), and allow the court to set a hearing to review firearms and ammunition compliance.

Noncompliance With Firearms and Ammunition Order, or Warrant (form JV-274)

The committee recommends that this form be adopted for mandatory use to implement SB 320 and AB 1621 and would be used to provide notice to agencies that a restrained person has guns, firearms, firearm parts, or ammunition in violation of a restraining order. Because some information shared with law enforcement may be confidential, like certain information obtained in warrants or a background check, the committee recommends that this form be confidential.

Policy implications

The committee considered how to best implement SB 1141 and SB 374’s definitions of coercive control and SB 320 and AB 1621’s statutory mandates regarding firearms and ammunition prohibitions. The proposed amended rules and new and revised forms attempt to include the new statutory definition of coercive control for JV protective orders based on domestic violence, as well as implement the new statutory prohibitions on the possession of firearms and ammunition in all JV protective order cases. As discussed above, at the same time, the committee is proposing to convert the juvenile protective order forms to plain-language format, which will make the forms easier to complete, understand, and enforce.

Comments

This proposal circulated for comment as part of the spring 2022 invitation-to-comment cycle from April 1 through May 13, 2022, 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, trial court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocates (CASA) programs, and other juvenile and family law professionals. Five organizations, including three superior courts, provided comment: two agreed with the proposal, two agreed with the proposal if modified, and one did not indicate a position. A chart with the full text of the comments received and the committee’s responses is attached at pages 80–136.

The committee sought specific comment on whether changing the juvenile restraining order forms to plain language would be helpful to the parties and the courts. The three commenters who answered this question stated the plain-language forms would be helpful.

The committee also sought specific comment on whether the proposed second set of juvenile restraining order forms, solely for the proceedings where the restrained person is a child in the juvenile justice system, would be helpful to the parties and the courts. Two commenters, both large courts, stated that this would be helpful to the parties and the courts. One commenter, another large court, stated that it would be helpful to the parties and law enforcement when enforcing the orders, but that judges and court staff are familiar with the current forms and the changes would not necessarily be helpful for the courts. Because all commenters who answered this question agreed that the proposed form for use in juvenile justice proceedings when the restrained party is a child would be helpful to the parties and one commenter stated that the forms would be helpful to law enforcement, the committee concluded that it would continue to recommend the separate set of forms for adoption by the council.

The committee also sought specific comment on whether it would be better on form JV-258 at item 3 to have a check-box list of behaviors, similar to what is on the proposed form JV-245 at item 3, rather than calling for a narrative. All three commenters who answered this question stated a preference for the check-box format. The committee agrees and that change has been made in the recommended forms.

The committee also sought specific comment on whether additional examples of abuse should be added to the list of behaviors on the proposed form JV-245 at item 3. Two commenters stated there did not need to be additional examples, with one commenter noting that the last check box, “Other,” allows people to fill in other types of abuse. One commenter suggested adding “threatened, or falsely impersonated” after “Stalked” and/or adding a check box for “Disturbing the peace.” The committee concluded that since these are plain-language forms and since the last check box is “Other,” additional examples of abuse did not need to be added to this form.

Alternatives considered

Plain-language forms

The committee considered maintaining the juvenile protective order forms in standard format instead of converting them to plain language. The committee is recommending converting the forms in this proposal to the plain-language format because it concluded that these changes will make the forms easier to understand, complete, and enforce, for reasons explained above.

Restraining orders against a child

The committee considered not creating a new set of forms for restraining orders against children in juvenile justice proceedings and continuing to use the current forms. However, the committee concluded that the new forms would be of assistance to both parties and the courts, by clarifying what orders—much more limited than in other juvenile restraining orders—are available in such

cases. For the reasons discussed above, the committee decided it was best to create new forms with the limited orders allowed under section 213.5(b).

Fiscal and Operational Impacts

The committee anticipates that this proposal will require courts to train court staff and judicial officers on the newly revised forms, revise written policies and procedures, and create new codes in case management systems for the new forms. In implementing the revised forms, courts will incur standard reproduction costs. While the plain-language forms have more pages than the standard forms, most people requesting and obtaining restraining orders in the juvenile court have lawyers, so the lawyers will bear a good deal of the reproduction costs, but on a much smaller scale than court reproduction would cost.

Attachments and Links

1. Cal. Rules of Court, rules 5.620, 5.625 and 5.630, at pages 17–21
2. Forms JV-245, JV-247, JV-250, JV-251, JV-253, JV-255, JV-258, JV-259, JV-260, JV-265, JV-268, JV-272, and JV-274, at pages 22–79
3. Chart of comments, at pages 80–136
4. Link A: Assembly Bill 1621,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1621
5. Link B: Senate Bill 320,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB320
6. Link C: Senate Bill 374,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB374
7. Link D: Senate Bill 1141,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1141

Rule 5.620, 5.625 and 5.630 of the California Rules of Court are amended, effective January 1, 2023, to read:

1 **Rule 5.620. Orders after filing under section 300**

2
3 (a) * * *

4
5 (b) **Restraining orders (§ 213.5)**

6
7 After a petition has been filed under section 300, and until the petition is dismissed
8 or dependency is terminated, the court may issue restraining orders as provided in
9 rule 5.630. A temporary restraining order must be prepared on *Notice of Court*
10 *Hearing and Temporary Restraining Order—Juvenile* (form JV-250). An order
11 after hearing must be prepared on *Restraining Order—Juvenile* *Juvenile*
12 *Restraining Order After Hearing* (form JV-255).
13

14 (c)–(e) * * *

15
16 **Rule 5.625. Orders after filing of petition under section 601 or 602**

17
18 (a) **Restraining orders (§ 213.5)**

19
20 After a petition has been filed under section 601 or 602, and until the petition is
21 dismissed or wardship is terminated, the court may issue restraining orders as
22 provided in rule 5.630. A temporary restraining order must be prepared on *Notice*
23 *of Court Hearing and Temporary Restraining Order—Juvenile* (form JV-250) or, if
24 the restrained person is the subject of a petition under section 601 or 602, on *Notice*
25 *of Court Hearing and Temporary Restraining Order Against a Child* (form JV-
26 260). An order after hearing must be prepared on *Restraining Order—Juvenile*
27 *Juvenile Restraining Order After Hearing* (form JV-255) or, if the restrained
28 person is the subject of a petition under section 601 or 602, on *Juvenile Restraining*
29 *Order After Hearing—Against a Child* (form JV-265).
30

31 (b)–(c) * * *

32
33 **Rule 5.630. Restraining orders**

34
35 (a) **Court’s authority (§§ 213.5, 304)**

36
37 (1) After a petition has been filed under section 300, 601, or 602, and until the
38 petition is dismissed or dependency or wardship is terminated, or the ward is
39 no longer on probation, the court may issue restraining orders as provided in
40 section 213.5. The juvenile court has exclusive jurisdiction under section
41 213.5 to issue a restraining order to protect the child who is the subject of a
42 petition under section 300, or any other child in the household.
43

1 (2) The juvenile court, on its own motion, may issue an order as provided for in
2 section 213.5, or as described in Family Code section 6218.

3
4 ~~(e)~~(b) The definition of abuse in Family Code section 6203 applies to restraining
5 orders issued under Welfare and Institutions Code section 213.5.

6
7 ~~(b)~~(c) **Application for restraining orders**

8
9 (1) Application for restraining orders may be made orally at any scheduled
10 hearing regarding the child who is the subject of a petition under section 300,
11 601, or 602, or may be made by written application, or may be made on the
12 court's own motion.

13
14 (2) If the application is made orally and the court grants a temporary order, the
15 court may direct the requesting party to prepare a temporary order, as
16 directed in (8) below, obtain the judicial officer's signature, file the order
17 with the court, and serve the order on the restrained person.

18
19 ~~(2)(3)~~The written If the application is made in writing, it must be submitted on
20 *Request for Restraining Order—Juvenile Request for Juvenile Restraining*
21 *Order* (form JV-245) or, if the request is for a restraining order against the
22 child or youth who is the subject of a petition under section 601 or 602, on
23 *Request for Juvenile Restraining Order Against a Child* (form JV-258).

24
25 ~~(3)(4)~~A person ~~requesting~~ applying for a restraining order in writing must submit to
26 the court with the ~~request~~ application a completed *Confidential CLETS*
27 *Information Form* (form CLETS-001) under rule 1.51.

28
29 ~~(d)~~ **Applications—procedure**

30
31 (5) If the application is related to domestic violence, the application may be
32 submitted without notice, and the court may grant the ~~petition~~ request and
33 issue a temporary order.

34
35 (6) If the application is not related to domestic violence, the notice requirements
36 in Code of Civil Procedure section 527 apply.

37
38 ~~(4)(7)~~In determining whether or not to issue the temporary restraining order
39 ~~without notice~~, the court must consider all documents submitted with the
40 application and may review the contents of the juvenile court file regarding
41 the child.
42

1 (2)(8) The temporary restraining order must be prepared on *Notice of Court*
2 *Hearing and Temporary Restraining Order—Juvenile* (form JV-250) or, if
3 the restrained person is the subject of a petition under section 601 or 602, on
4 *Notice of Court Hearing and Temporary Restraining Order Against a Child*
5 (form JV-260), and must state on its face the date of expiration of the order.
6

7 **(e)(d) Continuance**
8

9 (1) The court may grant a continuance under ~~Welfare and Institutions Code~~
10 section 213.5.

11
12 (2) The court must grant one request for continuance by the restrained party for a
13 reasonable period of time to respond to the petition.
14

15 (3) A written request for a continuance must be made on *Request to Reschedule*
16 *Restraining Order Hearing* (form JV-251).
17

18 (2)(4) ~~Either *Request and Order to Continue Hearing (Temporary Restraining*~~
19 ~~*Order—Juvenile* (form JV-251) *Order on Request to Reschedule Restraining*~~
20 ~~*Order Hearing* (form JV-253) or a new *Notice of Court Hearing and*~~
21 ~~*Temporary Restraining Order—Juvenile* (form JV-250) must be used for this~~
22 ~~purpose to grant or deny a request for continuance. If the restrained person is~~
23 ~~the subject of a petition under section 601 or 602, either form JV-253 or a~~
24 ~~new *Notice of Court Hearing and Temporary Restraining Order Against a*~~
25 ~~*Child* (form JV-260) must be used.~~
26

27 **(f)(e) Hearing on application for restraining order**
28

29 (1) Proof may be by the application and any attachments, additional declarations
30 or documentary evidence, the contents of the juvenile court file, testimony, or
31 any combination of these.
32

33 (2) The restraining order hearing may be held at the same time as any hearing to
34 declare the child a dependent or ward of the juvenile court under section 300,
35 601, or 602, or subsequent hearings regarding the dependent or ward.
36

37 (3) The restraining order hearing must be held within the timelines in section
38 213.5(c)(1).
39

40 (2)(4) The order after hearing must be prepared on ~~*Restraining Order—Juvenile*~~
41 ~~*Juvenile Restraining Order After Hearing* (form JV-255) or, if the restrained~~
42 ~~person is the subject of a petition under section 601 or 602, *Juvenile*~~

1 Restraining Order After Hearing—Against a Child (form JV-265), and must
2 state on its face the date of expiration of the order.

3
4 **(g)(f) Service of restraining order**

5
6 When service of Notice of Court Hearing and Temporary Restraining Order—
7 Juvenile (form JV-250), Notice of Court Hearing and Temporary Restraining
8 Order Against a Child (form JV-260), ~~or Juvenile Restraining Order After~~
9 ~~Hearing—Juvenile (form JV-255), or Juvenile Restraining Order After Hearing—~~
10 ~~Against a Child (form JV-265)~~ is made, it must be served with a blank ~~Proof of~~
11 ~~Firearms Turned In, Sold, or Stored Receipt for Firearms, Firearm Parts, and~~
12 ~~Ammunition~~ (form DV-800/~~JV-252~~ JV-270) and How Do I Turn In, Sell, or Store
13 My Firearms?, Firearm Parts, and Ammunition? (form DV-800-INFO/~~JV-252~~-
14 ~~INFO~~ JV-270-INFO). Failure to serve form ~~JV-252~~ ~~or~~ ~~JV-252-INFO~~ JV-270 or ~~JV-~~
15 ~~270-INFO~~ does not make service of form JV-250, ~~or~~ form JV-255, form JV-260, or
16 form JV-265 invalid.

17
18 **(h)(g) Firearm relinquishment**

19
20 The firearm and ammunition relinquishment procedures in ~~rule 5.495~~ Family Code
21 sections 6322.5 and 6389 also apply to restraining orders issued under section
22 213.5.

23
24 **(i)(h) * * ***

25
26 **(j)(i) Criminal records search (§ 213.5(k) and ~~Stats. 2001, ch. 572, § 7~~)**

- 27
28 (1) ~~Except as provided in (3),~~ Before any hearing on the issuance or denial of a
29 restraining order, the court must ensure that a criminal records search is or
30 has been conducted as described in Family Code section 6306(a). Before
31 deciding whether to issue a restraining order, the court must consider the
32 information obtained from the search.
- 33
34 (2) If the results of the search indicate that an outstanding warrant exists against
35 the subject of the search, or that the subject of the search is currently on
36 parole or probation, the court must proceed under section 213.5(k)(3).
- 37
38 (3) ~~The requirements of (1) and (2) must be implemented in those courts~~
39 ~~identified by the Judicial Council as having resources currently available for~~
40 ~~these purposes. All other courts must implement the requirements to the~~
41 ~~extent that funds are appropriated for this purpose in the annual Budget Act.~~
- 42

1 ~~(k)~~(j) **Modification of restraining order**

2
3 (1) A restraining order may be modified on the court’s own motion or in the
4 manner provided for in ~~Welfare and Institutions Code~~ section 388 or 778, as
5 appropriate, and rule ~~5.560~~ 5.570.

6
7 (2) A termination or modification order must be made on *Change to Restraining*
8 *Order After Hearing* (form JV-257). A new ~~*Restraining Order—Juvenile*~~
9 *Juvenile Restraining Order After Hearing* (form JV-255) or, if the restrained
10 person is the subject of a petition under section 601 or 602, a new *Juvenile*
11 *Restraining Order After Hearing—Against a Child* (form JV-265), may be
12 prepared in addition to form JV-257.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-245.8.17.22

When to use this form

Use this form to ask for a restraining order if a child in juvenile court needs protection, or you want a restraining order and you have a relationship to the child as listed in item 1b below. If you have a lawyer in this case, the lawyer should fill out this form. **Do not** use this form if you want a restraining order against a child in a juvenile justice (delinquency) case; instead use form JV-258, *Request for Juvenile Restraining Order Against a Child*.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

1 Person in Need of Protection

a. **Name:** _____

(If additional people need to be protected, list them in ④.)

Age: _____

b. **Relationship to child:**

- person in ① is the child
- parent
- guardian
- social worker
- probation officer
- child who lives in same household
- present caregiver of child
- court-appointed special advocate
- representative of Indian child's tribe
- other: _____

c. **Lawyer's information** (skip if you do not have a lawyer)

Name: _____ State Bar No.: _____

Firm name: _____

d. **! Address where you or your lawyer can receive court papers**

(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

Address: _____

City: _____ State: _____ Zip: _____

e. **Your contact information (optional) or your lawyer's contact information**

(The court could use this information to contact you. If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information. If you don't have a lawyer, you may give your information but doing so is optional.)

Telephone: _____ Email Address: _____ Fax: _____

2 Person to Be Restrained

a. **Name:** _____

b. **Date of birth (if known):** _____ **Age (give estimate if age unknown):** _____

c. **Gender:** Male Female Nonbinary

d. **Race:** _____

e. **Relationship to person in ① a:** _____

This is not a Court Order.



4 Do other people need protection from the person in (2)?

- No
- Yes (*If yes, list them.*)

a. <u>Full name</u>	<u>Age</u>	<u>Relationship to the child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Why do these people need protection?

Check here if you need more space to list additional people or to describe why these people need protection. Attach a sheet of paper and write "JV-245, Item 4" at the top.

5 Did you provide notice to the person in (2) of this request for a restraining order?

(Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, "Am I Eligible?")

a. No (*If no, complete the section below.*)

(1) I did not notify the person in (2) or their attorney because I am afraid that the person in (2) will threaten or harm the person in (1) a if they receive notice of this request before protection can be granted (*explain*):

(2) Other (*describe*):

b. Yes (*If yes, complete the section below.*)

(1) Who did you notify? Person in (2) Lawyer of person in (2)

(2) When did you provide notice? (*date*): _____ (*time*): _____ a.m. p.m.

(3) How did you provide notice? (*Check all that apply.*)

Telephone (*area code and number*): _____

Fax (*area code and number*): _____

Email (*email address*): _____

Other (*describe*): _____

This is not a Court Order.



6 Does Person in 2 Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver, frame, or unfinished receiver or unfinished frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes (If you have information, complete the section below.)

	Describe firearms (guns), firearm parts, or ammunition	How many or what amount?	Location, if known
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____
(6)	_____	_____	_____

Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different. Choose the orders that fit your situation.

Check all the orders that you want a judge to make (order).

7 Order to Not Abuse

I ask the judge to order the person in 2 to not do the following things to any person listed in 1 or 4 :

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

If this restraining order is needed to prevent domestic violence, "disturbing the peace" includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form [DV-500-INFO](#), page 2, "Am I Eligible?"

8 No-Contact Order

I ask the judge to order the person in 2 to not contact any person listed in 1 or 4.

This is not a Court Order.



9 **Stay-Away Order**

a. I ask the judge to order the person in **(2)** to stay away from the following persons and places:

(Check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Person listed in (1) | <input type="checkbox"/> The vehicle of any protected person |
| <input type="checkbox"/> Each person listed in (4) | <input type="checkbox"/> The school or child care of any protected person |
| <input type="checkbox"/> The home of any protected person | <input type="checkbox"/> Other <i>(please explain)</i> : _____ |
| <input type="checkbox"/> The workplace of any protected person | |

b. How far do you want the person to stay away from all the places you checked above?

- 100 yards (300 feet) Other *(give distance in yards)*: _____

c. Do you and the person in **(2)** live together or live close to each other?

- No Yes *(If yes, check one)*:
- Live together *(If you live together, you can ask that the person in **(2)** move out in **(10)**.)*
 - Live in the same building, but not in the same home
 - Live in the same neighborhood
 - Other *(please explain)*: _____

d. Do you and the person in **(2)** have the same workplace or go to the same school?

- No Yes *(If yes, check all that apply)*:
- Work together at *(name of company)*: _____
 - Go to the same school *(name of school)*: _____
 - Other *(please explain)*: _____

10 **Order to Move Out**

*(You can make this request if the person in **(2)** lives with the child who is in juvenile court, **and** the person in **(1)** is the child in juvenile court, or has care, custody, and control of the child in juvenile court. Complete the section below if you want to ask for this order.)*

a. I ask the judge to order the person in **(2)** to move out of the home, located at:

Address: _____

b. What right does person in **(1)** have to live at the address listed above?

(Check all that apply)

The person in **(1)**:

- | | |
|---|--|
| <input type="checkbox"/> owns the home. | <input type="checkbox"/> has lived at the address for _____ years, _____ months. |
| <input type="checkbox"/> is on the lease. | <input type="checkbox"/> pays for some or all of the rent or mortgage. |
| <input type="checkbox"/> lives at the address with a child in this case | <input type="checkbox"/> other <i>(please explain)</i> : _____ |

This is not a Court Order.



11 **Visitation with Children**

Check this box if you have a child or children with the person in **(2)** and want the judge to make orders to protect your children.

The requested orders are:

The requested orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

The requested orders are in the attached document (*specify form or document*): _____

12 **Protect Animals**

a. (You may ask the judge to protect any animals that belong to the person in **(1)** or anyone who lives with that person.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:

(Check all that apply)

(1) Stay away from the animals by at least:

100 yards (300 feet) Other (*give distance in yards*): _____

(2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.

(3) Give me sole possession, care, and control of the animals because:

(Check all that apply)

Person in **(2)** abuses the animals. I take care of these animals.

I purchased these animals. Other (*please explain*): _____

This is not a Court Order.



Automatic Orders if the Judge Grants Restraining Order

13) No Firearms (Guns), Firearm Parts, or Ammunition

If the judge grants you a restraining order, the person in (2) must turn in, sell, or store any firearms (guns), firearm parts, or ammunition that they have or control. The person in (2) would also be prohibited from buying any firearms (guns), firearm parts, or ammunition.

14) Cannot Look for Protected People and Others

If the judge grants you a restraining order, the person in (2) will not be allowed to look for the address or location of any person protected by the restraining order or the location or the address of family members, caretakers, or guardians of the protected people unless the court finds good cause to not make this order.

15) Additional Pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

16) Your Signature

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

Date: _____

Type or print your name

▶ _____
Sign your name

17) Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name

▶ _____
Lawyer's signature

Your Next Steps

1) You must complete at least two additional forms:

- [Form JV-250](#), *Notice of Court Hearing and Temporary Restraining Order (only items 1, 2, and 3)*
- [Form CLETS-001](#), *Confidential CLETS Information*
- **If you are asking for child visitation orders and did not write the request on this form**, you must complete for JV-205, *Visitation (Parenting Time) Order—Juvenile* or attach another document with the requested visitation plan.

2) Turn in your completed forms to the court. Find out when your forms will be ready for pickup.

This is not a Court Order.

Clerk stamps date here when form is filed.

**Draft- Not approved by
Judicial Council. 8.16.22**

Use **this form** if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of the form JV-245, *Request for Juvenile Restraining Order*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

1 Name of Person Asking for Protection:*(See form JV-245, item 1a):*

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:**2 Your Name:****! Address where you can receive court papers**

(This address will be used by the court and by the person in 1 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with them to fill out this form and give their information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court may use this information to contact you. If you don't want the person in 1 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed on form JV-250, *Notice of Court Hearing and Temporary Restraining Order*. If you do not agree to having a restraining order against you, attend your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

This is not a Court Order.

How to complete this form: To answer the questions below, look at the form JV-245 filled out by the person in ①. Tip: When the restraining order forms say “the person in ②,” that means you, and “the person in ①” means the person who is asking for a restraining order against you.

4 Information About You (see ② on form JV-245)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

5 Your Relationship to the Person in ①

In item ② of form JV-245, has the person in ① correctly described your relationship with them?

Yes No If no, what is your relationship with the person in ①?: _____

6 Other Protected People

If the judge grants a restraining order, it can protect more than one person. See ④ on form JV-245 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

7 Order to Not Abuse (see ⑦ on form JV-245)

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

8 No-Contact Order (see ⑧ on form JV-245)

- a. I agree to the order requested.
 b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

9 Stay-Away Order (see ⑨ on form JV-245)

- a. I agree to the orders requested.
 b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

This is not a Court Order.



10 **Order to Move Out** (see **10** on form JV-245)

- a. I agree to the order requested.
- b. I do not agree to the order requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

11 **Visitation of Children** (see **11** on form JV-245)

- a. I agree to the orders requested.
- b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

12 **Protect Animals** (see **12** on form JV-245)

- a. I agree to the orders requested.
- b. I do not agree to the orders requested.

Explain why you disagree, or describe a different order that you would agree to: _____

You can also complete form JV-205 *Visitation (Parenting Time) Order—Juvenile* and attach it to this form.

13 **Firearms (Guns), Firearm Parts, or Ammunition** (see **13** on form JV-245)

If you were served with form JV-250, *Notice of Court Hearing and Temporary Restraining Order*, you must follow the orders in **6** on form JV-250. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-250. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

Check all that apply

- a. I do not own or have any prohibited items (firearms (guns), prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or control to law enforcement or sold/stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
 - is attached has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)

(Give details, like what your job is and why you need a firearm: _____

This is not a Court Order.



14 Cannot Look for Protected People (see **14** on form JV-245)

- a. I agree to the order.
- b. I do not agree to the order.

Explain why you disagree, or describe a different order that you would agree to: _____

15 **Additional Reasons I Do Not Agree With the Request** (optional)

Explain why you do not agree to any of the orders requested by the person in **1** (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper and write “JV-247, Additional Reasons I Do Not Agree” at the top.

16 Additional Pages

Number of pages attached to this form, if any: _____

17 Your Signature

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

Date: _____

Type or print your name

▶ _____
Sign your name

18 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name

▶ _____
Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

Instruction: The person asking for a restraining order must complete items **①**, **②**, and **③** only. The court will complete the rest of this form.

Original Order **Amended Order**

DRAFT
Not approved by
the Judicial Council
JV-250.v10.8.17.22

① Protected Person (name): _____

② Person to Be Restrained or if ⑤b is checked, Restrained Person

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in **①**: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Type, number, and location of firearms or ammunition:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

③ Other Protected People

In addition to the person named in **①**, the people listed below are protected by the orders listed in **⑨** through **⑫**.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-250, Other Protected People" at the top, and attach it to this form.

④ Your Hearing Date (Court Date)

The judge scheduled a court date to review a request for restraining orders against the person in **②**. Any temporary orders granted on this form end on the court date and time listed below.



Date: _____ Time: _____ Name and address of court, if different from above: _____

Dept.: _____ Room: _____

This is a Court Order.

5 The orders requested are:

- a. **Not granted.** The court denies the request for a temporary restraining order but will consider the request for restraining order at the court date listed in (4). (*Explain reason for denial*):
- _____
- b. **Granted temporarily.** The court grants a temporary restraining order as checked below and through page 5. This does not always mean that every requested order was granted temporarily.

If 5 b is checked, this order must be enforced throughout the United States. See page 6.

To the Person in (2), if 5 b is checked

If 5 b is checked, the judge has granted temporary orders. See items (6) through (15). If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in (2). If this address is not correct, or to find out if the orders were made permanent, contact the court.

6 Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
- (1) Firearms (guns);
 - (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

This is a Court Order.



7 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "JV-250, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

8 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed in item (4), you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in (6)b) you still have or own, including any items listed in (7). If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.



Date: _____ Dept.: _____
 Time: _____ Room: _____

Name and address of court, if different from court address listed on page 1

9 **Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

This is a Court Order.



10 Order to Not Abuse Not requested Denied until the hearing Granted as follows:

You must not do the following things to the person in ① and any person listed in ③:
Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone’s contraception, birth control, pregnancy, or access to health information.

11 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③
directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 11a:
- (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (explain): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

12 Stay-Away Order Not requested Denied until the hearing Granted as follows:

- a. You must stay at least (specify): _____ yards away from (check all that apply):
- | | |
|---|---|
| <input type="checkbox"/> Person in ①. | <input type="checkbox"/> School of person in ①. |
| <input type="checkbox"/> Home of person in ①. | <input type="checkbox"/> Persons in ③. |
| <input type="checkbox"/> Job or workplace of person in ①. | <input type="checkbox"/> Children’s school or child care. |
| <input type="checkbox"/> Vehicle of person in ①. | <input type="checkbox"/> Other (explain): _____ |
- b. Exception to 12a:
The stay-away orders do not apply:
- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
 - (2) For you to contact or visit with your children for court-ordered contact or visits.
 - (3) Other (explain): _____

This is a Court Order.

13 Order to Move Out Not requested Denied until the hearing Granted as follows:

You must take only personal clothing and belongings needed until the hearing and move out immediately from (address): _____

14 **Visitation With Children** Not requested Denied until the hearing Granted as follows:

The court has ordered visitation with the children in this case.

a. The visitation orders are (*specify*):

b. The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

c. The orders are in an attached document (*specify*): _____

15 Protect Animals Not requested Denied until the hearing Granted as follows:

a. You must stay at least _____ yards away from the animals listed below.

b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.

c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
---	----------------	---------------------------	-------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

16 Service

a. **No other service is needed.** The person in ② attended the juvenile court hearing on (*date*): _____ when these orders were made.

b. **The person in ② must be personally served** with a copy of this order and *Request for Juvenile Restraining Order* (form JV-245), if form JV-245 was filed by (*date*): _____

This is a Court Order.



17 Enter Restraining Order Into Database

If **5**b is checked, within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide their name: _____

18 Attached Pages

Number of pages attached to this seven-page form: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

Certificate of Compliance With Violence Against Women Act for Temporary Orders

This temporary protective order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement, if **5 b is checked**

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in **6**, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g. stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item ⑪ is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment) then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that the foregoing *Notice of Court Hearing and Temporary Restraining Order —Juvenile* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
8.16.22

Instructions: Use this form to ask the judge to reschedule your restraining order court date listed on:

- ▶ Form JV-250, *Notice of Court Hearing and Temporary Restraining Order—Juvenile*, or
- ▶ Form JV-260, *Notice of Court Hearing and Temporary Restraining Order Against a Child*.

If you have a lawyer in this case, your lawyer should fill out this form.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:

1 My Information

a. My name is: _____

b. I am the:

- (1) **Protected party** (*skip to 2*).
- (2) **Person to be restrained** (*give your contact information below*).

Address where I can receive mail:

(This address will be used by the court and other party to notify you in this case. If you want to keep your home address private, you can use another address like a post office box or another person's address, if you have their permission.) If you have a lawyer, give your lawyer's address and contact information.

Address: _____

City: _____ State: _____ Zip: _____

My contact information (*optional*):

Telephone: _____ Fax: _____

Email Address: _____

Lawyer's information (*skip if you do not have one*):

Name: _____ State Bar No.: _____

Firm Name: _____

2 Information About My Case

a. The other party in this case is (*full name*): _____

b. I have a court date currently scheduled for (*date*): _____

This is not a Court Order.



3 Is a Temporary Restraining Order in Effect?

- a. Yes. Date the order was made, if known: _____
(Please attach a copy of the order if you have one.)
- b. No.
- c. I don't know.

Notice: If your court date is rescheduled, any temporary restraining order will remain in effect until the end of the new court date, unless otherwise ordered by the court.

4 Why Does Your Court Date Need to Be Rescheduled?

- a. I am the person asking for protection, and I need more time to have the restrained party personally served.
- b. I am the person the other party wants restrained, and this is my first request to reschedule the court date.
- c. Other reason:

5 Your Signature

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

Date: _____

Type or print your name

Sign your name

6 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name

Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-253.v7.8.16.22

Complete items ① and ② only.

① **Protected Party:** _____

② **Person to Be Restrained:** _____

(The court will complete the rest of this form.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:

③ Next Court Date

a. The request to reschedule the court date is **denied**.

Your court date is: _____

(1) Any *Temporary Restraining Order* (form JV-250 or form JC-260) already granted stays in full force and effect until the next court date.

(2) Your court date is not rescheduled because: _____

b. The request to reschedule the court date is **granted**. Your court date is rescheduled for the day and time listed below. See ④–⑧ for more information.

Name and address of court, if different from above:

New Court Date → Date: _____ Time: _____
Dept.: _____ Room: _____

④ Temporary Restraining Order

a. **There is no temporary restraining order (TRO) in this case until the next court date** because:

(1) A TRO was not previously granted by the court.

(2) The court terminates (cancels) the previously granted TRO because: _____

b. **A temporary restraining order (TRO) is in full force and effect** because:

(1) The court extends the TRO previously granted on *(date)*: _____
It now expires on *(date)*: _____

(If no expiration date is listed, the TRO expires at the end of the court date listed in ③ b).

(2) The court changes the TRO previously granted and signs a new TRO. The new TRO is attached to this order.

c. **Other (specify):** _____

Warning and Notice to the Restrained Party:

If ④ b is checked, a temporary restraining order has been issued against you. You must follow the orders until they expire.

This is a Court Order.



5 Reason Court Date Is Rescheduled

a. [] There is good cause to reschedule the court date (check one):

(1) [] The protected party has not served the party to be restrained.

(2) [] Other (explain): _____

b. [] This is the first time that the party to be restrained has asked for more time to prepare.

c. [] The court reschedules the court date on its own motion.

6 Serving (Giving) Order to Other Party

The request to reschedule was made by the:

a. [] Protected party

(1) [] You do not have to serve the party to be restrained because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) [] You must have the party to be restrained personally served with a copy of this order, the request for restraining order, and any temporary restraining order granted, by (date): _____

(3) [] You must have the party to be restrained served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) [] Other: _____

b. [] Party to be restrained

(1) [] You do not have to serve the protected party because they or their lawyer were at the court date or agreed to reschedule the court date.

(2) [] You must have the protected party personally served with a copy of this order by (date): _____

(3) [] You must have the protected party served with a copy of this order. This can be done by mail. You must serve by (date): _____

(4) [] Other: _____

c. [] Court

(1) [] Further notice is not required.

(2) [] The court will mail a copy of this order to all parties by (date): _____

(3) [] Other: _____

This is a Court Order.



7 Enter Order into Database

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: _____

8 Other Orders

9 Attached Pages (All of the attached pages are part of this order.)

- a. Number of pages attached to this three-page form: _____
- b. Attachments include forms (check all that apply):

JV-250 JV-260 JV-272 Other: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. Contact the clerk's office or go to www.courts.ca.gov/forms.htm for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code section 54.8.)

Instructions to Clerk

If the hearing is rescheduled and the court extended, modified, or terminated a temporary restraining order, then the court must enter this order into CLETS or send this order to law enforcement to enter into CLETS, unless the court has designated the person named in 7b to send a copy to law enforcement. The entry or sending of the order must be done within one business day from the day the order is made.

—Clerk's Certificate—

Clerk's Certificate

I certify that this *Order on Request to Reschedule Hearing (Temporary Restraining Order—Juvenile) (CLETS-JUV)* (form JV-253) is a true and correct copy of the original on file in the court.

[seal]

Date: _____ Clerk, by: _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Original Order Amended Order

DRAFT
Not approved by
the Judicial Council
JV-255.v11.8.17.22v2

① **Protected Person (name):** _____

② **Restrained Person**

*Full Name: _____

*Gender: M F Nonbinary

*Age: _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

*Race: _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

③ **Other Protected People**

In addition to the person in ①, the following persons are protected by orders as indicated in items ⑪ through ⑭.

<u>Full name</u>	<u>Relationship to person in ①</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-255, Other Protected People" at the top, and attach it to this form.

④ **Expiration Date**

This restraining order, except the orders noted below,* end on:

(date): _____ at (time): _____ a.m. p.m. or midnight

***Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item ⑤ a.
- If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 5—6.

This is a Court Order.



5 Hearing

- a. The hearing was on (date): _____ with (name of judicial officer): _____
- b. These people were at the hearing (check all that apply):
- The person in ① The lawyer for the person in ① (name): _____
- The person in ② The lawyer for the person in ② (name): _____

6 Future Court Hearing



- The person in ① The person in ② must attend court on:
- Date: _____ Time: _____ a.m. p.m.
- Department: _____ to review (list issues): _____
- _____
 Name and address of court if different than on page 1: _____

To the Person in ②

The court has granted a long-term restraining order. See ⑦ through ⑰. If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine. It is a felony to take or hide a child in violation of this order.

7 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
- (1) Firearms;
 - (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.
- f. Limited Exemption: The judge has made the necessary findings to grant an exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm (make, model, and serial number of firearm): _____ but must have it only during scheduled work hours and while traveling to and from their place of work. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here to list additional items. List them on a separate piece of paper, write "JV-255, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____

The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation.

(prosecuting agency): _____

10 **Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that you have properly turned in, sold, or stored all prohibited items (described in **7**b) you still have or own, including any items listed in **8**. If you do not attend the court hearing listed in **6**, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

This is a Court Order.



11 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

12 Order to Not Abuse

You must not do the following things to the person in ① and any person listed in ③:

Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “
- Disturb the peace means to destroy someone’s mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- ”
- Coercive control means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone’s reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

13 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 13a:

(1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.

(2) You may contact or visit with your children only during court-ordered contact or visits.

(3) Other (*explain*): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



14 **Stay-Away Order**

a. You **must** stay at least (*specify*): _____ yards away from (*check all that apply*):

- The person in ①.
- Home of person in ①.
- Job or workplace of person in ①.
- Vehicle of person in ①.
- School of person in ①.
- Persons in ③.
- Children's school or child care.
- Other (*specify*): _____

b. Exception to 14a: _____

The stay-away orders do not apply:

- (1) For you to exchange your children for court-ordered visits. You must do so briefly and peacefully.
- (2) For you to contact or visit with your children for court-ordered contact or visits.
- (3) Other (*explain*): _____

15 **Order to Move Out**

You must move out immediately from (*address*): _____

16 **Visitation With Children**

The judge has ordered visitation with the children in this case.

The orders are: _____

The orders are in the attached form JV-205, *Visitation (Parenting Time) Order—Juvenile*.

The requested orders are in an attached document (*specify other form or document*): _____

17 **Protect Animals**

a. You must stay at least _____ yards away from the animals listed below.

b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.

c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This is a Court Order.



18 Service

(Check a, b, or c)

- a. **No other proof of service is needed.** The person in ② attended the hearing on (date): _____.
- b. **The person in ② did not attend the hearing.** Proof of service of form JV-245 and form JV-250 was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge’s orders in this form are the same as the orders in form JV-250 except for the expiration date. The person in ② must be served (given) a copy of this order, either by mail or in person.
 - (2) This order must be personally served. The judge’s orders in this form are different from the orders in form JV-250. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②’s last known address by (date): _____

19 Enter Restraining Order Into Database

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.
If the court designates someone, provide the person's name: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

Certificate of Compliance With Violence Against Women Act

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

This is a Court Order.



Instructions for Law Enforcement

Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in item ⑤(a) on page 2; or
- The date next to the judge's signature on page 5.

The orders *end* on the expiration date in item ④ on page 1. If no date is listed, they end three years from the hearing date in item 5(a) on page 2.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in ⑥, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person "served" (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b),(c).)

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

This is a Court Order.



Instructions for Law Enforcement

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 13 is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing (Juvenile)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-258.v14.8.17.22****When to use this form**

Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. If you have a lawyer in this case, the lawyer should fill out this form for you. If you want a restraining order in a juvenile case but against someone who is not the child, use form JV-245, *Request for Juvenile Restraining Order*.

1 Person in Need of Protectiona. **Name:** _____

If you are a lawyer asking for a restraining order for someone else, like a victim in this case, write your name below in ①e. If additional people need to be protected, list them in ④.)

b. **Age:** _____c. **Ⓜ Address where you can receive court papers**

(This address will be used by the court and by the person in ② to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their address.)

Address: _____

City: _____ State: _____ Zip: _____

d. **Contact Information**

(The court could use this information to contact you, If you don't want the person in ② to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer give their information.)

Telephone: _____ Email Address: _____ Fax: _____

e. **Lawyer Making This Request** (if not the person in ①a)

Name: _____ Title: _____

Firm Name: _____ State Bar No.: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:**2 Child or Youth to Be Restrained**a. **Name:** _____b. **Date of birth** (if known): _____ **Age** (give estimate, if age unknown): _____c. **Gender:** Male Female Nonbinaryd. **Race:** _____e. **Relationship to person in ①a:** _____**This is not a Court Order.**

3 Describe Why You Need a Restraining Order

a. **Did the person in 2 do any of these things to the person in 1?**

Check all that apply
(Note: These are only some examples of why someone might need a restraining order.)

- Physically hurt or tried to physically hurt
- Sexually abused or tried to sexually abuse
- Used or threatened to use gun or weapon
- Stalked
- Harassed by phone, online, or by any other means
- Isolated the person in 1 from friends or family
- Kept the person in 1 from eating or getting other basic needs
- Destroyed property (examples: breaking phone, door, window)
- Other (please explain): _____

b. **Give details about what the person in 2 did that was abusive or harassing.** Start with the most recent incident, then write about any other incidents. Be sure to include details like dates and any emotional or physical harm. Details can also include how often something happened, what was said, or whether weapons were used, etc.

Check here if you need more space to describe abuse or harassment. Attach a sheet of paper and write "JV-258, Item 3" at the top.

c. Check here if you know there is a report that supports your request that has been filed with the court, and complete the section below.

Who wrote the report and when was the report filed? (Check all that apply.)

- Social worker (date report was filed): _____
- Probation officer (date report was filed): _____
- Other (name): _____ (date report was filed): _____

This is not a Court Order.

4 Do Other People Need Protection From the Person in 2?

- No
- Yes (If yes, give their information below.)

a. <u>Full name</u>	<u>Age</u>	<u>Relationship to the child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Why do these people need protection?

5 Did You Provide Notice to the Person in 2 of This Request for a Restraining Order?

(Skip this item if your request is based on domestic violence. To know what domestic violence is, see form [DV-500-INFO](#), page 2, "Am I Eligible?")

- a. **No** (If no, complete the section below.)
 - (1) I did not notify the person in 2 or their lawyer because I am afraid that the person in 2 will threaten or harm the person in 1a if they receive notice of this request before protection can be granted (explain):

(2) Other (describe):

- b. **Yes** (If yes, complete section below.)
 - (1) Who did you notify? Person in 2 Lawyer of person in 2
 - (2) When did you provide notice? (date): _____ (time): _____ a.m. p.m.
 - (3) How did you provide notice? (Check all that apply.)
 - Telephone (list number): _____ Fax (list number): _____
 - Email or other electronic means (specify): _____
 - Other (describe): _____

6 Does the Person in 2 Have Firearms (Guns), Firearm Parts, or Ammunition?

(A firearm includes a handgun, rifle, shotgun, and assault weapon. A firearm part means a receiver, frame, or unfinished receiver or unfinished frame. Ammunition includes bullets, shells, cartridges, and clips.)

- a. I don't know
- b. No
- c. Yes (If you have information, complete the section below.)

Describe firearms, firearm parts, or ammunition	How many or what amount?	Location, if known
(1) _____	_____	_____
(2) _____	_____	_____

This is not a Court Order.



Choose the Orders That You Want a Judge to Make

In this section, you will choose the orders you want a judge to make now. Every situation is different. Check all the orders that you want the judge to make (order).

7 **Order to Not Abuse**

I ask the judge to order the person in **(2)** to not threaten, stalk, or disturb the peace of me or anyone listed in **(4)**.

If this restraining order is needed to prevent domestic violence, “disturbing the peace” includes coercive control. For more information on what domestic violence, disturbing the peace, and coercive control mean, read form [DV-500-INFO](#), page 2, "Am I Eligible?"

8 **No-Contact Order**

I ask the judge to order the person in **(2)** to not contact me or any person listed in **(4)**.

9 **Protect Animals**

a. (You may ask the judge to protect animals that you own or are keeping for others, animals that the people in **(4)** own or are keeping for others, and animals that anyone who lives with you or the people in **(4)** own or are keeping for others.)

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
(1) _____	_____	_____	_____
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____

b. I ask the judge to protect the animals listed above by ordering the person in **(2)** to:

(Check all that apply)

- (1) Stay away from the animals by at least:
 - 100 yards (300 feet) Other (give distance in yards): _____
- (2) **Not** take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals.
- (3) Give the me possession, care, and control of the animals because (check all that apply):
 - Person in **(2)** abuses the animals. I take care of these animals.
 - I purchased these animals. Other (please explain): _____

This is not a Court Order.



Automatic Orders if the Judge Grants Restraining Order

10 No Firearms (Guns), Firearm Parts, or Ammunition

If the judge grants a restraining order, the person in ② will have to turn in, sell, or store any firearms (guns), firearm parts, or ammunition that the person has or controls. The person in ② would also be prohibited from buying firearms (guns), firearm parts, and ammunition.

11 Cannot Look for Protected People and Others

If the judge grants a restraining order, the person in ② will not be allowed to look for the address or location of any person protected by the restraining order or the address or location of family members, caretakers, or guardians of the protected people, unless the court finds good cause to not make this order.

12 Additional Pages

If you used additional paper or forms, enter the number of extra pages attached to this form: _____

13 Your Signature

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

Date: _____

Type or print your name



Sign your name

14 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

Your Next Steps

1 You must complete two additional forms:

- [Form JV-260](#), *Notice of Court Hearing and Temporary Restraining Order Against a Child (only items 1, 2, and 3)*
- [Form CLETS-001](#), *Confidential CLETS Information*

2 Turn in your completed forms to the court. Find out when your forms will be ready for pickup.

This is not a Court Order.

Clerk stamps date here when form is filed.

**Draft- Not approved by
Judicial Council-8.18.22**

Use this form if someone has asked for a restraining order against you, and you want to respond in writing. If you have a lawyer in this case, the lawyer should fill out this form. You will need a copy of the form JV-258, *Request for Juvenile Restraining Order Against a Child*, that was filled out by the person who asked for a restraining order against you. There is no cost to file this form with the court.

1 Name of Person Asking for Protection:

(See form JV-258, item ①):

2 Your Name:**! Address where you can receive court papers**

(This address will be used by the court and by the person in ① to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, work with your lawyer to fill out this form and give your lawyer's information.)

Address: _____

City: _____ State: _____ Zip: _____

! Your contact information (optional)

(The court could use this information to contact you. If you don't want the person in ① to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)

Email Address: _____ Telephone: _____ Fax: _____

Your lawyer's information (if you have one)

Name: _____ State Bar No.: _____

Firm Name: _____

3 Your Hearing Date (Court Date)

Your hearing date is listed in ④ on form JV-260, *Court Hearing and Temporary Restraining Order Against a Child*. If you do not agree to having a restraining order against you, go to your hearing. If you do not attend your hearing, the judge could grant a restraining order that could last up to three years.

This is not a Court Order.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Fill in case number:

Case Number:

How to complete this form: To answer the questions below, look at the form JV-258 filled out by the person in ①. Tip: When the restraining order forms say "the person in ②" that means you, and the "person in ①" means the person who is asking for a restraining order against you.

④ Information About You (see ② on form JV-258)

The person in ① listed your name, age, gender, and date of birth. If any of the information is incorrect, use the space below to give the correct information.

⑤ Other Protected People

If the judge grants a restraining order, it can include other people. See ④ on form JV-258 to see if the person in ① is asking for other people to be protected by the restraining order.

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to: _____

⑥ Order to Not Abuse (see ⑦ on form JV-258)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to: _____

⑦ No-Contact Order (see ⑧ on form JV-258)

- a. I agree to the order requested.
b. I do not agree to the order requested.

Explain why you disagree; and/or describe a different order that you would agree to: _____

⑧ Protect Animals (see ⑨ on form JV-258)

- a. I agree to the orders requested.
b. I do not agree to the orders requested.

Explain why you disagree; and/or describe a different order that you would agree to: _____

This is not a Court Order.



9 Firearms (Guns), Firearm Parts, or Ammunition (see 6 on form JV-258)

If you were served with form JV-260, *Court Hearing and Temporary Juvenile Restraining Order Against a Child*, you must follow the orders in 6 on form JV-260. You must file a receipt with the court from a law enforcement agency or a licensed gun dealer within 48 hours after you received form JV-260. You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition](#).

Check all that apply

- a. I do not own or have any prohibited items (guns, firearms, prohibited firearm parts, or ammunition).
- b. I have turned in all prohibited items that I have or control to law enforcement or sold them to or stored them with a licensed gun dealer. A copy of the receipt showing that I turned in, sold, or stored the prohibited items (check all that apply):
 - is attached has already been filed with the court.
- c. I ask for an exception to carry a firearm for work only. (You will have to show the judge that your work requires you to have a firearm, and that your employer cannot reassign you to another position where a firearm is not needed. If you are a peace officer, there are additional requirements.)
(Give details, like what your job is and why you need a firearm: _____)

10 Cannot Look for Protected People (see 11 on form JV-258)

- a. I agree to the order.
- b. I do not agree to the order.
Explain why you disagree; and/or describe a different order that you would agree to: _____

11 Additional Reasons I Do Not Agree with the Request (optional)

Explain why you do not agree to any of the orders requested by the person in 1 (give specific facts and reasons):

Check here if you need more space. Attach a sheet of paper, and write “JV-259, Additional Reasons I Do Not Agree” at the top.

This is not a Court Order.



12 Additional Pages

Number of pages attached to this form, if any: _____

13 Your Signature

Date: _____

Type or print your name



Sign your name

14 Your Lawyer's Signature (if you have one)

Date: _____

Lawyer's name



Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

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Not approved by
the Judicial Council
JV-260.v14.8.17.22.v2

Instruction: Use this form if you want a restraining order **against a child or youth** in a juvenile justice (delinquency) case. The person asking for a restraining order must complete ①, ②, and ③ only. The court will complete the rest of this form.

① **Protected Person** (name): _____

② **Person to Be Restrained or if ⑤b is checked, Restrained Person**

Fill in court name and street address:

*Full Name: _____

*Gender: M F Nonbinary

*Age: _____ (Give estimate, if age unknown.)

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

*Race: _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

Type, number, and location of firearms or ammunition:

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Superior Court of California, County of _____

Fill in child's name

Child's name: _____

Court fills in case number when form is filed.

Case Number: _____

③ **Other Protected People**

In addition to the person named in ①, the people listed below are protected by the orders listed in ⑨ through ⑪.

<u>Full name</u>	<u>Age</u>	<u>Relationship to child</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-260, Other Protected People" at the top, and attach it to this form.

④ **Your Hearing Date (Court Date)**

A court hearing is scheduled on the request for restraining orders against the person in ②. Any temporary orders granted on this form end on the court date listed below.



Date: _____ Dept.: _____ Name and address of court, if different from above: _____
 Time: _____ Room: _____

This is a Court Order.



5 The orders requested are:

- a. **Not granted.** The court denies the request for a temporary restraining order but will consider the request for restraining order at the court date listed in **4**. *(Explain reasons for denial):*

- b. **Granted temporarily.** The court grants a temporary restraining order as checked below and through page 3. This does not always mean that every requested order was granted.

This order must be enforced throughout the United States, if 5b is checked. See page 5.

To the Person in **2, if **5** b is checked**

If **5 b is checked, the judge has granted temporary orders. See items **6** through **12**. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and/or pay a fine.**

If the judge makes a restraining order at the hearing that has the same orders as in this form, you will get a copy of that order by mail at the address in **2. If this address is not correct, or to find out if the orders were made permanent, contact the court.**

6 No Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. **Prohibited items are:**
 - (1) Firearms (guns);
 - (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, sold, or stored. (You may use [form DV-800/JV-270, Receipt for Firearms, Firearm Parts, and Ammunition.](#)) If law enforcement served you with the restraining order, you must give a copy of the receipt to that law enforcement agency.

7 Restrained Person Has Prohibited Items

The court finds that you have the following prohibited items:

a. Firearms and firearm parts

Description	Location, if known	Proof of compliance was received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

This is a Court Order.



7	b. Ammunition			
	Description	Amount, if known	Location, if known	Proof of compliance was received by the court
(1)	_____	_____	_____	<input type="checkbox"/> (date): _____
(2)	_____	_____	_____	<input type="checkbox"/> (date): _____
(3)	_____	_____	_____	<input type="checkbox"/> (date): _____
(4)	_____	_____	_____	<input type="checkbox"/> (date): _____

Check here if you need more space to list items. List them on a separate piece of paper, write "JV-260, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

8 **Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

In addition to the hearing listed in item 4, you must attend the court hearing listed below to prove that you have properly turned in, sold, or stored all prohibited items (described in 6b) you still have or own, including any items listed in 7. If you do not attend the court hearing listed below, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

Name and address of court, if different from court address listed on page 1



Date: _____ Dept.: _____
Time: _____ Room: _____

9 **Cannot Look for Protected People and Others**

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was **not granted** because the judge found good cause not to make the order.

10 **Order to Not Abuse** Not requested Denied until the hearing Granted as follows:

You must not threaten, stalk, or disturb the peace of the person in 1 and any person listed in 3.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- "Disturb the peace" means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- "Coercive control" means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

This is a Court Order.



11 No-Contact Order Not requested Denied until the hearing Granted as follows:

- a. You must **not contact** the person in ① the persons in ③ directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.
- b. Exception to 11a:
 - (1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.
 - (2) You may have contact with your children only during court-ordered contact or visits.
 - (3) Other (*explain*): _____
- c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

12 Protect Animals Not requested Denied until the hearing Granted as follows:

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals, listed below.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (<i>or other way to ID animal</i>)	Type of animal	Breed (<i>if known</i>)	Color
_____	_____	_____	_____
_____	_____	_____	_____

13 Service

- a. **No other service is needed.** The person in ② attended the hearing on (*date*): _____ when these orders were made.
- b. **The person in ② must be personally served** with a copy of this order and request *Request for Juvenile Restraining Order Against a Child* (form JV-258), if form JV-258 was filed by (*date*): _____

14 Enter Restraining Order Into Database

If ⑤b is checked, within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.
If the court designates someone, provide that person's name: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With Violence Against Woman Act for Temporary Orders

This temporary protective order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994), upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement, if item 5 b is checked

This order is effective when made. It is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in 6, or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer's name and law enforcement agency.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Penal Code section 13710(b).)

This is a Court Order.

Instructions for Law Enforcement**Conflicting Orders—Priorities for Enforcement**

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item (11) is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Notice of Court Hearing and Temporary Restraining Order Against a Child (Juvenile)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

Original Order _____ Amended Order

DRAFT
Not approved by
the Judicial Council
JV-265.v11.8.17.22

① **Protected Person (name):** _____

② **Restrained Person (Child or Youth)**

***Full Name:** _____

***Gender:** M F Nonbinary

***Age:** _____ *(Give estimate, if age unknown.)*

Date of Birth: _____ Height: _____ Weight: _____

Hair Color: _____ Eye Color: _____

***Race:** _____

Relationship to person in ①: _____

Address of restrained person: _____

City: _____ State: _____ Zip: _____

(Information that has a star (*) next to it is required to add this order into a California police database. Give all the information you know.)

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name

Child's name:

Court fills in case number when form is filed.

Case Number:

③ **Other Protected People**

In addition to the person in ①, the following persons are protected by orders as indicated in items ⑪ through ⑬.

<u>Full name</u>	<u>Relationship to person in ①</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Check here if you need to list more people. List them on a separate piece of paper, write "JV-265, Other Protected People" at the top, and attach it to this form.

④ **Expiration Date**

This restraining order, except the orders noted below,* end on:

(date): _____ at (time): _____ a.m. p.m. or midnight

***Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.**

- If no date is written, the restraining order ends three years after the date of the hearing in item ⑤ a.
- If no time is written, the restraining order ends at midnight on the expiration date.

This order must be enforced throughout the United States. See page 5.

This is a Court Order.



5 Hearing

- a. The hearing was on *(date)*: _____ with *(name of judicial officer)*: _____
- b. These people were at the hearing *(check all that apply)*:
- The person in **①** The lawyer for the person in **①** *(name)*: _____
- The person in **②** The lawyer for the person in **②** *(name)*: _____

6 Future Court Hearing

- The person in **①** The person in **②** must attend court on:

Date: _____ Time: _____ a.m. p.m.

Department: _____ to review *(list issues)*: _____

Name and address of court if different than on page 1: _____

To the Person in **②**

The court has granted a long-term restraining order. See **⑦ through **⑭**. If you do not obey these orders, you can be charged with a crime, go to juvenile hall, jail, or prison, and be fined.**

7 Firearms (Guns), Firearm Parts, or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited item listed below in b.
- b. Prohibited items are:
- (1) Firearms;
 - (2) Firearm parts (receiver, frame, or unfinished receiver or frame as defined in Penal Code section 16531); and
 - (3) Ammunition.
- c. Within 24 hours of receiving this order, you must sell to or store with a licensed gun dealer, or turn in to law enforcement, any prohibited items you have in your immediate possession or control.
- d. If law enforcement asks you for your prohibited items, you must turn them over immediately.
- e. Within 48 hours of receiving this order, you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold. (You may use [form DV-800/JV-270](#), *Receipt for Firearms, Firearm Parts, and Ammunition*.) If law enforcement served you with the restraining order, you must immediately surrender any prohibited items you have upon request by the officer. Within 48 hours, you must give a copy of the receipt to that law enforcement agency.

This is a Court Order.



8 **Restrained Person Has Prohibited Items**

The court finds that you have the following prohibited items:

a. Firearms and/or firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____

b. Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here if you need more space to list items. List them on a separate piece of paper, write "JV-265, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

9 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that you have not fully complied with the orders previously granted on (date): _____
The court has not received a receipt or proof of compliance for all the items listed in **8**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation

(prosecuting agency): _____

10 **Court Hearing to Review Firearms, Firearm Parts, and Ammunition Compliance**

You must attend the court hearing in **6** to prove that you have properly turned in, sold, or stored all prohibited items (described in **7**b) you still have or own, including any items listed in **8**. If you do not attend the court hearing in **6**, a judge may find that you have violated the restraining order and notify a prosecuting attorney of the violation.

This is a Court Order.



11 Cannot Look for Protected People and Others

You must not take any action to look for any person protected by this order or a protected person's family members, caretakers, or guardians, including their addresses or locations.

If checked, this order was not granted because the court found good cause not to make this order.

12 Order to Not Abuse

You must not threaten, stalk or disturb the peace of the person in ① and any person listed in ③.

(If this box is checked, this case involves domestic violence and you must not do any of the actions listed below.)

- “Disturb the peace” means to destroy someone's mental or emotional calm. This can be done directly or indirectly, such as through someone else. This can also be done in any way, such as by phone, over text, or online. Disturbing the peace includes coercive control.
- “Coercive control” means a number of acts that unreasonably limit the free will and individual rights of any person protected by this restraining order. Examples include isolating them from friends, relatives, or other support; keeping them from food or basic needs; controlling or keeping track of them, including their movements, contacts, actions, money, or access to services; and making them do something by force, threat, or intimidation, including threats based on actual or suspected immigration status. Coercive control includes reproductive coercion meaning controlling someone's reproductive choices, such as using force, threat, or intimidation to pressure someone to be or not be pregnant, and to control or interfere with someone's contraception, birth control, pregnancy, or access to health information.

13 No-Contact Order

a. You must **not contact** the person in ①, the persons in ③, directly or indirectly, by any means, including by telephone, mail, email, or other electronic means.

b. Exception to 13a:

(1) You may have brief and peaceful contact with the person in ① only to communicate about your children for court-ordered visits.

(2) You may contact or visit with your children only during court-ordered contact or visits.

(3) Other (*explain*): _____

c. Peaceful written contact through a lawyer or process server or another person for service of legal papers related to a court case is allowed and does not violate this order.

This is a Court Order.



14 **Protect Animals**

- a. You must stay at least _____ yards away from the animals listed below.
- b. You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.
- c. The person in ① is given the sole possession, care, and control of the animals listed below.

Name (or other way to ID animal)	Type of animal	Breed (if known)	Color
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15 **Service**

(Check a, b, or c)

- a. **No other proof of service is needed.** The person in ② attended the hearing on (date): _____.
- b. **The person in ② did not attend the hearing.** Proof of service of form JV-258 and form JV-260 was presented to the court. (Check all that apply):
 - (1) This order can be served by mail. The judge's orders in this form are the same as the orders in form JV-260 except for the expiration date. The person in ② must be served (given) a copy of this order either by mail or in person.
 - (2) This order must be personally served. The judge's orders in this form are different from the orders in form JV-260. The person in ② must be personally served (given) a copy of this order.
 - (3) The court has scheduled a firearms and ammunition compliance hearing. The person in ① must have a copy of this order served on the person in ② by:
 - (A) Personal service by (date): _____
 - (B) Mail at the person in ②'s last known address by (date): _____

16 **Enter Restraining Order Into Database**

Within one business day, this order must be entered into the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CLETS.
- b. The court or someone it designates will send a copy of this order to a local law enforcement agency.

If the court designates someone, provide the person's name: _____

Judge's Signature

Date: _____

Judge or Judicial Officer

This is a Court Order.



Certificate of Compliance With Violence Against Women Act

This restraining (protective) order meets all “full faith and credit” requirements of the Violence Against Women Act, 18 U.S.C. section 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in each jurisdiction throughout the 50 states of the United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

Instructions for Law Enforcement

Start Date and End Date of Orders

The orders *start* on the earlier of the following dates:

- The hearing date in (5)a on page 2; or
- The date next to the judge’s signature on this page.

The orders *end* on the expiration date in item (4) on page 1. If no date is listed, they end three years from the hearing date in item (5)a on page 2.

Duties of Officer Serving This Order

The officer who serves this order on the Restrained Person must do the following:

- Ask if the Restrained Person is in possession of any of the prohibited items listed in (6), or has custody or control of any that they have not already turned in.
- Order the Restrained Person to immediately surrender to you all prohibited items.
- Issue a receipt to the Restrained Person for all prohibited items that have been surrendered.
- Complete a proof of personal service and file it with the court. You may use form DV-200 for this purpose.
- Within one business day of service, submit the proof of service directly into the California Restraining and Protective Order System (CARPOS), including the serving officer’s name and law enforcement agency.

Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, in the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

Notice/Proof of Service

Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Penal Code section 836(c)(1); Family Code section 6383.)

Consider the restrained person “served” (notified) if:

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer. (Family Code section 6383; Penal Code section 836(c)(2).) An officer can obtain information about the contents of the order in the California Restraining and Protective Order System (CARPOS). (Family Code section 6381(b),(c).)

This is a Court Order.



Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Penal Code sections 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Penal Code section 136.2 and Family Code sections 6383(h)(2), 6405(b)):

1. **Emergency Protective Order (EPO):** If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. **No-Contact Order:** If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item ⑬ is an example of a no-contact order.
3. **Criminal Protective Order (CPO):** If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Family Code sections 6383(h)(2) and 6405(b)). Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Penal Code section 136.2(e)(2)). All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. **Civil Restraining Orders:** If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(The clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Restraining Order After Hearing — Against a Child (Juvenile)* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-268.8.17.22

Fill in court name and street address:

Superior Court of California, County of

Court clerk fills in case number when form is filed.

Case Number:

1 Name of Party Asking for Protection:**2** Name of Party to Be Restrained:**3** Notice to Server

You must:

- Be 18 years of age or older.
- Not be listed in items **1** or **2** of form JV-245, *Request for Juvenile Restraining Order*, or JV-258, *Request for Juvenile Restraining Order Against a Child*.
- Give a copy of all documents checked in **4** to the person in **2** (you cannot send them by mail). Then complete and sign this form, and give it to the party in **1**.

4 I gave the party in **2** a copy of all the documents checked:

- a. JV-245, *Request for Juvenile Restraining Order*
- b. JV-258, *Request for Juvenile Restraining Order Against a Child*
- c. JV-250, *Notice of Court Hearing and Temporary Restraining Order—Juvenile*
- d. JV-260, *Notice of Court Hearing and Temporary Restraining Order Against a Child*
- e. JV-251, *Request to Reschedule Restraining Order Hearing*
- f. JV-253, *Order on Request to Reschedule Restraining Order Hearing*
- g. JV-255, *Juvenile Restraining Order After Hearing*
- h. JV-265, *Juvenile Restraining Order After Hearing—Against a Child*
- i. Other (*specify*): _____

5 I personally gave copies of the documents checked above to the party in **2** on:

- a. Date: _____ b. Time: _____ a.m. p.m.
- c. At this address: _____
City: _____ State: _____ Zip: _____

6 Server's Information

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

(If you are a registered process server):

County of registration: _____ Registration number: _____

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

Date: _____

Type or print server's name_____
Server to sign here

Case Number: _____

This form is attached to (check one): JV-250 JV-255 JV-260 JV-265 Other: _____

Draft- 8.16.22
Not approved
by Judicial Council

1 Restrained Person Has Prohibited Items

The court finds that the restrained person has prohibited items as follows:

- Listed on form JV-250, *Notice of Court Hearing and Temporary Restraining Order*
- Listed on form JV-260, *Notice of Court Hearing and Temporary Restraining Order Against a Child*
- Listed below:

Firearms (guns) and/or firearm parts

Description	Location, if known	Proof of compliance received by the court
(1) _____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	<input type="checkbox"/> (date): _____
(5) _____	_____	<input type="checkbox"/> (date): _____
(6) _____	_____	<input type="checkbox"/> (date): _____

Ammunition

Description	Amount, if known	Location, if known	Proof of compliance received by the court
(1) _____	_____	_____	<input type="checkbox"/> (date): _____
(2) _____	_____	_____	<input type="checkbox"/> (date): _____
(3) _____	_____	_____	<input type="checkbox"/> (date): _____
(4) _____	_____	_____	<input type="checkbox"/> (date): _____
(5) _____	_____	_____	<input type="checkbox"/> (date): _____
(6) _____	_____	_____	<input type="checkbox"/> (date): _____

Check here if you need more space to list items. List them on a separate piece of paper, write "JV-272, Restrained Person Has Prohibited Items" at the top, and attach it to this form.

2 Court Hearing to Review Firearms (Guns), Firearm Parts, and Ammunition Compliance

The restrained person must attend the court hearing listed below to prove that all prohibited items have been properly turned in, sold, or stored. If the restrained person does not attend the court hearing listed below, a judge may find that the restrained person has violated the restraining order and a prosecuting attorney of the violation.

Name and address of court, if different from court address listed on the front of this order



Date: _____ Dept.: _____
 Time: _____ Room: _____

This is a Court Order.



3 **Restrained Person Has Not Complied With Surrendering Prohibited Items**

a. The court finds that the restrained person has not fully complied with (obeyed) the orders previously granted on (date): _____. The court has not received a receipt or proof of compliance for all the items listed in **1**.

b. Notify Prosecutor

The court will immediately notify the following prosecuting agency of this violation (prosecuting agency): _____.

This is a Court Order.

Clerk stamps date here when form is filed.

**Draft-8.16.22
Not approved by
Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

This notice is provided to the agency or agencies listed below, as required by the Family Code.

1 Protected Person

Name: _____

2 Restrained Person

Name: _____

3 Restrained Person Has Not Complied With Surrendering Firearms (Guns), Firearm Parts, and Ammunition

The court has found that the person listed in **2** has firearms (guns), firearm parts, or ammunition in violation of a restraining order. A copy of the restraining order granted by the court is attached to this form.

Notice is given to the prosecuting agency (*name of agency*): _____

Notice is provided pursuant to Family Code section 6389(c)(4).

4 Outstanding Warrant(s)

The court has found that the person listed in **2** has one or more outstanding warrants. A copy of the restraining order granted by the court is attached to this form. Notice of the warrant is provided to the agency listed below, as required by Welfare and Institutions Code section 213.5(k) and Family Code section 6306(e). The agency must take all actions necessary to execute the warrant(s).

Notice to Law Enforcement Agency (*name of agency*): _____

5 Additional Information

The court has conducted a background search under Welfare and Institutions Code section 213.5(k) and Family Code section 6306. In addition to the information provided above, the court is attaching the following information found in the background search.

(*Briefly describe information*): _____

6 Number of pages attached to this form, if any: _____

Judge's Signature

Date: _____

Judge or Judicial Officer



—Clerk's Certificate—

I certify that I am not a party to this case and that a true copy of the *Noncompliance With Firearms and Ammunition Order, or Warrant* (form JV-274), was sent to the agency or agencies listed on page 1:

[seal]

a. **Prosecuting agency listed in ③.**

(1) by fax, email, or other electronic means by personal delivery

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or delivery: _____

b. **Law enforcement agency listed in ④.**

(1) by fax, email, or other electronic means by personal delivery

(2) *(Phone number, email address, or address):* _____

(3) Date of transmission or delivery: _____

Date: _____ Clerk, by _____, Deputy

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
1.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Subcommittee by Corey Rada, Senior Analyst	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> • Impact on existing automated systems. <ul style="list-style-type: none"> ○ Changes to Efile configuration and case management systems • Results in additional training, which requires the commitment of staff time and court resources. <ul style="list-style-type: none"> ○ Training for staff, judicial officers; amendments to procedural manuals, instructions and policies are possible 	<p>No response required.</p> <p>The committee appreciates this information. No response required.</p>
2.	Orange County Bar Association by Daniel S. Robinson, President	A	No comments	No response required.
3.	Superior Court of Orange County On behalf of the Family Law & Juvenile Division by Vivian Tran, Analyst & Training Team	NI	<p>California Rules of Court 5.630</p> <ul style="list-style-type: none"> ▪ Rule incorrectly refers to form JV-254. Form JV-254 does not exist. <p>Form JV-245 (<i>Request for Juvenile Restraining Order</i>)</p> <p>Item 5 instructs parties to skip this item if request is based on domestic violence. It would be beneficial for self-represented litigants that this item includes the definition of domestic violence.</p>	<p>The committee has changed the reference to form JV-253 and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee has added an instruction that to learn if the case involves domestic violence, see DV-500-INFO that contains a plain language definition of domestic violence. The form would contain a hyperlink to the DV-500-INFO form. The committee has incorporated this change into the revisions it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>Form JV-245 (<i>Request for Juvenile Restraining Order</i>)</p> <p>Item 9c incorrectly states “move out in 13.” This item should reflect item 10 and not item 13.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>Form JV-247 (<i>Response to Request for Juvenile Restraining Oder</i>)</p> <p>Item 11 incorrectly instructs parties to “see 11 on form JV-245.” This item should reflect 12 instead of 11.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>Form JV-247 (<i>Response to Request for Juvenile Restraining Oder</i>)</p> <p>Item 12 incorrectly instructs parties to “see 12 on form JV-245.” This item should reflect 11 instead of 12.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>Form JV-247 (<i>Response to Request for Juvenile Restraining Oder</i>)</p> <p>Item 13 incorrectly instructs parties to “follow orders in 7.” This item should reflect item 6.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>Form JV-250 (<i>Notice of Court Hearing and Temporary Restraining Order</i>)</p> <p>Recommend item 3 (Other Protected People) be revised to list orders in 9-12 rather than 9-15. Items 13-15 do not pertain to <i>Other Protected People</i>.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>Form JV-253 (Order on Request to Reschedule a Hearing)</p> <p>Recommend form be listed as a new form since JV-253 did not exist previously.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>Form JV-255 (Restraining Order After Hearing)</p> <p>Recommend item 11 be listed as “Cannot Look for Protected People” similar to form JV-250 rather than “Cannot Look for Protected People and Others.”</p> <p>Item 18b(1) and (2) incorrectly refers to orders listed in form JV-251. JV-251 is a request form and not an order form.</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>Form JV-255 (Restraining Order After Hearing)</p> <p>Recommend a box and line be added for prosecuting attorney at item 5b on page 2.</p>	<p>A prosecuting attorney would not be present at a juvenile court hearing.</p>
			<p>Form JV-260 (Court Hearing and Temporary Restraining Order Against a Child)</p> <p>Recommend item 3 (Other Protected People) be revised to list orders on 9-11 rather than 9-12. Item 12 does not pertain to <i>Other Protected People</i>.</p>	<p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p>
			<p>Form JV-265 (Restraining Order After Hearing Against a Child)</p> <p>Recommend item (Other Protected People) be revised to list orders on 11-13 rather than 7-10.</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>Items 7-10 do not pertain to <i>Other Protected People</i>.</p> <p>Item 15b(1) and (2) incorrectly refers to orders listed in form JV-251. JV-251 is a request form and not an order form</p>	
			<p>Form JV-272 (<i>Prohibited Items Finding and Orders</i>)</p> <p>The top of the form has a checkbox for form JV-254. Form JV-254 does not exist. It appears the intended form should reflect JV-245.</p>	<p>The committee has changed the form to reflect all the temporary and permanent restraining order forms (JV-250, JV-255, JV-260, and JV-265).</p>
			<p>Form JV-274 (<i>Noncompliance with Firearms and Ammunition Order</i>)</p> <p>The title on the header and footer do not match.</p> <p>The Clerk’s Certificate on page 3 references item 3b. Item 3b does not exist.</p>	<p>The committee agrees with these comments and has addressed them in the form that it is recommending for adoption.</p>
			<p>Form DV-800/JV-270 (<i>Proof of Surrender of Firearms, Firearm Parts, and Ammunition</i>)</p> <p>Page 2 reflects the incorrect page number on the bottom right.</p>	<p>The committee agrees with this comment and has addressed it in the revisions that it is recommending for adoption.in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes.</p>	<p>No response required.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p><i>Would changing the juvenile restraining order forms to plain language as proposed here be helpful to parties and the courts?</i></p> <p>Yes, this would be helpful to parties and the courts.</p>	<p>No response required.</p>
			<p><i>Would the proposed second set of juvenile restraining order forms, solely for the proceedings where the restrained person is a child in the juvenile justice system, be helpful to parties and courts?</i></p> <p>Yes, this would be helpful to parties and the courts.</p>	<p>No response required.</p>
			<p><i>Rather than a narrative description of abuse, would it be better for proposed form JV-258 at item 3 to have a checkbox list of items similar to what is on the proposed JV-245 at item 3?</i></p> <p>Yes, it would be better for proposed form JV-258 at item 3 to have a checkbox list of items similar to what is on the proposed JV-245 at item 3.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p><i>Are there additional examples of abuse that should be added to the list of behaviors on the proposed JV-245 at item 3?</i></p> <p>No.</p>	<p>The committee appreciates this comment. No response required.</p>
			<p><i>Would implementing these forms in a new plain-language format be unduly burdensome to implement during the pandemic? Or does the benefit of having forms that are easier to</i></p>	<p>No response required.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p><i>understand, complete, and enforce outweigh the implementation burden?</i></p> <p>No, the benefit of having forms that are easier to understand, complete, and enforce outweigh the implementation burden.</p>	
			<p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>No, the proposal does not appear to provide cost savings.</p>	No response required.
			<p><i>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?</i></p> <ul style="list-style-type: none"> ○ Training for case processing clerks and courtroom clerks (approximately 2 hours for each position), judicial officers (approximately 1 hour). ○ Revising applicable processes and procedures. ○ Changing/adding event codes in case management system. 	The committee appreciates this information.
			<p><i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>No, six months would be more sufficient to implement all the necessary changes related to</p>	The committee appreciates the concerns around implementation, but has determined that implementation of the statutory provisions by January 1, 2023 is needed to ensure that forms are legally accurate.

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	Commenter	Position	Comment	Committee Response
			<p>training, revising procedures, case management system updates.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>This proposal would work for Orange County.</p>	<p>No response required.</p>
4.	<p>Superior Court of Riverside County by Susan D. Ryan, Chief Deputy of Legal Services</p>	A	<p><u>Does the proposal appropriately address the stated purpose?</u></p> <p>Yes, the proposal seems to make the rules of court and forms conform to SB1141 and SB374 regarding the definition of “disturbing the peace”. The proposal also conforms to recent changes in SB320 regarding firearms and ammunition prohibitions, assists in making sure juvenile orders are entered into CLETS and converts forms to plain-language.</p> <p><u>Would changing the juvenile restraining order forms to plain language as proposed here be helpful to parties and the courts?</u></p> <p>Yes. Plain language is always better for the parties. Also, since the other protective order forms are already in plain-language the familiar language and format will be helpful to court staff and judicial officers.</p> <p><u>Would the proposed second set of juvenile restraining order forms, solely for the proceedings where the restrained person is a child in the</u></p>	<p>No response required.</p> <p>No response required.</p> <p>The committee has heard from several judicial officers that the current forms are not adequately designed for use in juvenile justice proceedings when the restrained person is the</p>

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	Commenter	Position	Comment	Committee Response
			<p><u>juvenile justice system, be helpful to parties and courts?</u></p> <p>We are sure that this would be helpful to the parties and to law enforcement when enforcing the orders. The judges and court staff are familiar with the current forms. The changes would not necessarily be helpful for the courts.</p>	<p>child who is the subject of those proceedings, and continues to recommend a new set of forms for use in those cases. Because all commenters who answered this question agreed that the proposed forms would be helpful to the parties and one commenter stated that the forms would be helpful to law enforcement, the committee concluded that it would continue to recommend the new forms for adoption by the council.</p>
			<p><u>Rather than a narrative description of abuse, would it be better for proposed form JV-258 at item 3 to have a checkbox list of items similar to what is on the proposed JV-245 at item 3?</u></p> <p>Victims or other parties in juvenile justice court will not likely have attorneys. The simple check box may make it easier for them to complete the forms.</p>	<p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p>
			<p><u>Are there additional examples of abuse that should be added to the list of behaviors on the proposed JV-245 at item 3?</u></p> <p>No, the list seems complete, plus the last check box “other” allows people to fill in other types of abuse.</p>	<p>The committee appreciates this comment. No response required.</p>
			<p><u>Would implementing these forms in a new plain-language format be unduly burdensome to implement during the pandemic? Or does the</u></p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p><u>benefit of having forms that are easier to understand, complete, and enforce outweigh the implementation burden?</u></p> <p>Changing the language on the forms will not be burdensome on the courts.</p>	
			<p><u>Would the proposal provide cost savings? If so, please quantify?</u></p> <p>No cost savings to the court.</p>	<p>No response required.</p>
			<p><u>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?</u></p> <p>2-4 hours training would be needed for clerk’s office and courtroom staff to understand the purpose and difference of the forms where a juvenile is the restrained person. Some new codes in the case management system would need to be created for the new forms. Changing language on existing forms would not have much impact on the courts.</p>	<p>The committee appreciates this information. No response required.</p>
			<p><u>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u></p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Yes</p> <p><u>How well would this proposal work in courts of different sizes?</u></p> <p>The proposal would likely work the same for any size court.</p>	<p>No response required.</p>
5.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p>Does the proposal adequately address the stated purpose?</p> <p>Yes.</p> <p>Would changing the juvenile restraining order forms to plain language as proposed here be helpful to parties and the courts?</p> <p>Yes.</p> <p>Would the proposed second set of juvenile restraining order forms, solely for the proceedings where the restrained person is a child in the juvenile justice system, be helpful to parties and courts?</p> <p>Yes.</p> <p>Rather than a narrative description of abuse, would it be better for proposed form JV- 258 at item 3 to have a checkbox list of items similar to what is on the proposed JV- 245 at item 3?</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>For consistency, a checkbox list would be better. A checkbox list also would be easier to read and understand.</p>	
			<p>Are there additional examples of abuse that should be added to the list of behaviors on the proposed JV-245 at item 3?</p> <p>Suggest adding “threatened, or falsely impersonated” after “Stalked” and/or adding a check box for “Disturbing the peace” (see FC § 6320; WIC § 213.5(a)-(b)).</p>	<p>The committee considered this suggestion, but concluded that since these are plain-language forms which the committee is trying to keep simple and readable, and since there is a check box is “other,” that additional examples of abuse did not need to be added to this form.</p>
			<p>Would implementing these forms in a new plain-language format be unduly burdensome to implement during the pandemic? Or does the benefit of having forms that are easier to understand, complete, and enforce outweigh the implementation burden?</p> <p>The benefit of having user-friendly forms outweighs the implementation burden. In addition, since the forms are available online, implementation should not be too difficult.</p>	<p>No response required.</p>
			<p>Would the proposal provide cost savings? If so, please quantify.</p> <p>Yes. It would save court time and workload to use the preprinted forms rather than drafting and producing documents that would serve the many purposes required by statute.</p>	<p>No response required.</p>
			<p>What would the implementation requirements be for courts—for example, training staff (please</p>	<p>The committee appreciates this information. No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>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?</p> <p>Training judicial officers and court clerks, supervisors, and managers in civil and juvenile assignments, revising any written processes and procedures currently in use (including those posted on court websites or intranet sites) and modifying case management systems to accommodate and increasingly complicated field of options, criteria, and requirements. The court might need a new hearing type to address the surrender of firearms, and new minute order codes.</p>	
			<p>Would 3 months from approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Probably. Larger courts might need more time.</p>	<p>No response required.</p>
			<p>How well would this proposal work in courts of different sizes?</p> <p>It would depend on each court’s capacity for implementing new rules and forms; this proposal contains a large number of forms (some new, some revised, some renumbered). Although they will be available on-line, court staff will need to become familiar with them</p>	<p>The committee appreciates this information. No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>(what’s changed and what hasn’t) and learn how to process them.</p> <p>Other Comments:</p> <p>Rule 5.625(a) Insert comma between “or” and “if”; insert “on” before “<i>Court Hearing</i>.”</p> <p>A temporary restraining order must be prepared on <i>Notice of Court Hearing and Temporary Restraining Order—Juvenile (Juvenile)</i> (form JV-250) or, if the restrained person is the subject of a petition under section 601 or 602, on <i>Court Hearing and Temporary Restraining Order Against a Child (Juvenile)</i> (form JV-260).</p> <p>Insert “on” before “<i>Restraining Order</i>.”</p> <p>An order after hearing must be prepared on <i>Restraining Order—Juvenile Restraining Order After Hearing (Juvenile)</i> (form JV-255) or, if the restrained person is the subject of a petition under section 601 or 602, on <i>Restraining Order After Hearing—Against Child (Juvenile)</i> (form JV-265).</p> <p>Rule 5.630(c)(3) Insert “on” before “<i>Request for</i>.”</p> <p>... or, if the request is for a restraining order against the child or youth who is the subject of a</p>	<p>The committee agrees with these suggestions to improve grammar and readability and has incorporated them into the amendments that it is recommending for adoption.</p> <p>The committee agrees with this suggestion to improve grammar and readability and has incorporated it into the amendments that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p><u>petition under section 601 or 602, on Request for Juvenile Restraining Order Against a Child (form JV-258).</u></p> <p>Rule 5.630(c)(8) Insert “on” before “<i>Court Hearing.</i>”</p> <p>... or, if the restrained person is the subject of a petition under section 601 or 602, on Court Hearing and Temporary Restraining Order Against a Child (Juvenile) (form JV-260),</p> <p>Rule 5.630(d) Question: Should this subpart of the rule state that a continuance must be requested on <i>Request to Reschedule Restraining Order Hearing</i> (form JV-251), which is a mandatory form?</p> <p>Rule 5.630(d)(3) Change “form JV-254” to “form JV-253.” Change “for this purpose” to “to grant or deny a request for continuance.”</p> <p>Either <i>Request and Order to Continue Hearing (Temporary Restraining Order— Juvenile)</i> (form JV-251) <i>Order on Request to Reschedule Hearing</i> (form JV-2543) or a new <i>Notice of Court Hearing and Temporary Restraining Order—Juvenile (Juvenile)</i> (form JV-250) must be used for this purpose to grant or deny a request for continuance. If the restrained person is the subject of a petition under section 601 or</p>	<p></p> <p>The committee agrees with this suggestion to improve grammar and readability and has incorporated it into the amendments that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it into the amendments that it is recommending for adoption.</p> <p>The committee agrees with these suggestions and has incorporated it into the amendments that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>602, either <i>Order on Request to Reschedule Hearing</i> (form JV-2543) or a new <i>Court Hearing and Temporary Restraining Order Against a Child (Juvenile)</i> (form JV-260) must be used.</p>	
			<p>Rule 5.630(e)(2) Question: Is “regularly scheduled” necessary? The restraining order hearing may be held at the same time as any regularly scheduled hearing to declare the child a dependent or ward ...</p>	<p>The committee agrees with this suggestion and has incorporated it into the amendments that it is recommending for adoption.</p>
			<p>Rule 5.630(f) Correct title of form JV-255 (move “<i>Juvenile</i>” to parenthetical at end of title); insert “a” between “<i>Against</i>” and “<i>Child</i>”; insert space between comma and “<i>Firearm Parts.</i>” When service of <i>Notice of Court Hearing and Temporary Restraining Order—Juvenile (Juvenile)</i> (form JV-250), <i>Court Hearing and Temporary Restraining Order Against a Child (Juvenile)</i> (form JV-260), or <i>Juvenile Restraining Order After Hearing—Juvenile (Juvenile)</i> (form JV-255), or <i>Restraining Order After Hearing—Against a Child (Juvenile)</i> (form JV-265) is made, it must be served with a blank <i>Proof of Firearms Turned In, Sold, or Stored</i> <i>Proof of Surrender of Firearms, Firearm Parts, and Ammunition</i> (form DV-800/JV-252 JV-270) and <i>How Do I Turn In, Sell, or Store My Firearms², Firearm Parts, and</i></p>	<p>The committee agrees with these suggestions and has incorporated them into the amendments that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p><i>Ammunition?</i> (form DV- 800-INFO/JV-252-INFO JV- 270-INFO). Failure to serve form JV-252- or JV-252- INFO JV-270 or JV-270-INFO does not make service of form JV-250, or form JV- 255, form JV-260, or form JV-265 invalid.</p>	
			<p>Rule 5.630(j)(1) Question: Should a citation to WIC § 778 be added for 601/602 cases?</p> <p>A restraining order may be modified ... in the manner provided for by section 388 or 778, as appropriate, and rule 5.570.</p>	<p>The committee agrees with this suggestion and has incorporated it into the amendments that it is recommending for adoption.</p>
			<p>Rule 5.630(j)(2) Insert “a” between “<i>Against</i>” and “<i>Child</i>.”</p> <p>... a new Restraining Order After Hearing— <i>Against a Child (Juvenile) (form JV-265), ...</i></p>	<p>The committee agrees with this suggestion and has incorporated it into the amendments that it is recommending for adoption.</p>
			<p>DV-800/JV-270, item 2.b. Suggested change: If you have a lawyer, give their information use your lawyer’s address.</p>	<p>The committee appreciates this comment, but concluded that “give” is easier to understand than “use.” This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800/JV-270, item 2.c. Suggested change: If you have a lawyer, give their information use your lawyer’s contact information.</p>	<p>The committee appreciates this comment, but concluded that “give” is easier to understand than “use.” This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>

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	Commenter	Position	Comment	Committee Response
			<p>DV-800/JV-270, item 3, par. 2 Correct the title and form number in the last sentence.</p> <p>... For help filling out this form, read <i>How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?</i> (form DV-800-INFO/JV-720270-INFO).</p> <p>JV-270, item 3: fix name and number of the INFO form</p>	<p>The committee is recommending that the title of this form should be “How Do I Turn In, Sell, or Store My Firearms, Firearm Parts, and Ammunition?”</p> <p>The committee agrees with this suggestion to correct the form number and has incorporated it into the revisions that it is recommending for adoption. This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800/JV-270, item 4.a. Delete “and” before “Firearm Parts”; insert “/JV-270” after “DV-800.”</p> <p>I filed a <i>Proof of Surrender of Firearms and Firearm Parts, and Ammunition</i> (form DV-800/JV-270) or other proof for those items with the court on (date):</p> <p>JV-270, item 4: fix name and number of the form in a; below should be above in c</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption. This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800/JV-270, item 4.c. Delete “not” after “why”; change “below” to “above.”</p> <p>... (<i>Explain why not</i>):</p>	<p>Item 4c has changed substantially and no longer has an “explain” instruction.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Check here if there is not enough space below above for your answer.</p>	<p>The committee agrees with this suggestion and has incorporated them into the revisions that it is recommending for adoption. This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800/JV-270, page 2 footers</p> <p>Left: Delete and replace with “Rev. January 1, 2023.” Right: Change “Page 1 of 4” to “Page 2 of 4”</p> <p>JV-270: fix page number on page 2</p>	<p>The numbering on the form has been revised. This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800/JV-270, check box beneath items 6.g. and 7.g.</p> <p>Suggested change: Check this box if more space is needed or to use a separate document to list all firearms, firearm parts, and or ammunition. Write ...</p>	<p>This has been revised to say “Check here if there is not enough space above for your answer. Use a separate sheet...” This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>
			<p>DV-800-INFO/JV-270-INFO -- Suggested changes:</p> <p>You must turn them in to a licensed gun dealer, or to law enforcement. You must do so within 24 hours of being served with the restraining order. If you were just in court and the judge granted a restraining order against you, follow the judge's orders right away. If you don't, the judge may be required have to notify law enforcement or the local prosecutor of your violation.</p>	<p>The committee recommends substantial further modifications to this form in light of comments received. Where the proposal contains the text that this commenter’s suggestions addresses, the committee has incorporated the suggestions into the revisions that it is recommending for adoption. This form is included in proposal 22-170, <i>Domestic Violence: Rule and Form Changes to Implement New Laws</i>.</p>

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	Commenter	Position	Comment	Committee Response
			<p>How do I sell my firearms?</p> <p>You can only sell or transfer your firearms to a licensed gun dealer only.</p> <p>How do I store my firearms?</p> <p>Licensed gun dealers and law enforcement agencies can store firearms but not all of them do. Contact them to find out if they will store your firearms and ask how much the fee is.</p> <p>How do I take my firearms to law enforcement?</p> <p>If I turn in my firearms to law enforcement, how long will they keep it them?</p> <p>... There are procedures for getting your firearms back after a restraining order expires.</p> <p>After I give my firearms to law enforcement, can I change my mind?</p> <p>... The law enforcement agency will give the licensed gun dealer the firearms you are selling.</p> <p>JV-270-INFO, page 1, bottom of first column: Licensed gun dealers</p>	
			<p>JV-245, p. 1</p>	

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	Commenter	Position	Comment	Committee Response
			<p>Boxed instructions at top of page, last sentence:</p> <p>Change “form JV-247” to “form “JV-258.”</p> <p>JV-245, page 1 at top: Fix form number for request against child (247 => 258)</p> <p>JV-245 (throughout): avoid using me and you/your to describe the protected person, as that person may not be filling out the form</p> <p>Item 1d: Suggested edits –</p> <p>For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail there regularly. If you have a lawyer, give their your lawyer’s address.)</p> <hr/> <p>JV-245, p. 2</p> <p>Item 3a: Suggested edits –</p> <p>Isolated me the person in 1 from friends or family</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p> <p>The committee thinks that it is important to be consistent with the plain language style used in the DV forms including the general use of “me” and “you” (directed toward self-represented parties), where that voice can be used clearly.</p> <p>The committee does not recommend making the change to indicate that the person is getting their mail <u>there</u>. The important part of this item is that the person is able to get their mail regularly, which is not the same as getting their mail there (the person being able to get their mail is different than the mail being delivered to the address).</p> <p>To be consistent with the other restraining order forms, the committee continues to recommend that the word “their” be used instead of “your lawyer’s). The committee also concluded that “their” was easier to read and understand.</p> <hr/> <p>The committee thinks that it is important to be consistent with the plain language style used in the DV forms including the general use of “me” and “you” (directed toward self-represented parties), where that voice can be used clearly.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Kept me the person in 1 from eating or getting other basic necessities needs</p>	
			<p>JV-245, p. 2</p> <p>Item 3b: Suggested edits⁴ –</p> <p>Details can also include how often something happened, what was said, or use of whether weapons were used, etc. Attach a sheet of paper and write “JV-245, Item 3” at the top.</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-245, p. 2</p> <p>Item 3c: Suggested edit –</p> <p>Check here if you know if there is a report that your request that has been filed with the court, and complete the section below.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-245, p. 2</p> <p>Item 5b: Suggested edit for consistency with item 5a –</p> <p><i>(If yes, complete the section below.)</i></p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-245, p. 2</p> <p>Item 5b(3): Suggested edits –</p> <p>Telephone (list area code and number): Fax (list area code and number):</p>	<p>The committee agrees with this suggestion and has incorporated it, with minor alterations, into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Email or other electronic means (<i>specify and list email address</i>):</p> <p>JV-245, p. 4</p> <p>Item 6c: Insert “what” before “amount” (How many or what amount?).</p> <p>Item 7, par. 1: Delete “ly” from “repeatedly.” ... (including repeatedly ly contact), ...</p> <p>Item 7, par. 2: Suggested edits in bullet points (because the person requesting the RO might not be a person listed in item 1 or item 4) –</p> <p>Destroying you someone’s mental or emotional well-being, ...</p> <p>Isolating you someone from friends, relatives, or other support; keeping you someone from food or basic needs; controlling or keeping track of you someone, including you that person’s movements, contacts, ... and making you someone do something by force, threats, or intimidation, ...</p> <p>JV-245, p. 5</p> <p>Item 9c: Change “13” to “10” –</p> <p><i>(if you live together, you can ask that the person in 2 move out in 1310.)</i></p> <p>Item 9c: Suggested edit –</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p> <p>The committee agrees with this suggestion since the request can be for multiple persons.</p> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p><i>(If you live together, you can ask that the person in 2 be ordered to move out in 1310.)</i></p> <p>Item 10: Delete hyphen from “Order to Move-Out”; add “in juvenile court” to first sentence.</p> <p>... and (2) the person in 1 is the child in juvenile court, or has care, custody, and control of the child in juvenile court.</p> <p>JV-245, p. 6</p> <p>Item 12: Suggested edits (WIC § 213.5(a) does not authorize the court to issue an order protecting the animals of the person in 2 [“an animal owned, possessed, leased, kept, or held by a person protected by the restraining order, or residing in the residence or household of a person protected by the restraining order”]) –</p> <p>(You may ask the judge to protect your the animals, your children’s animals, or the person in 2’s animals that belong to the person in 1 or anyone who lives with that person.)</p> <p>JV-245, p. 7</p> <p>Item 14, 1st sentence: “... protected by the restraining order.”</p> <p>Item 14, last sentence: It is not clear whether “this order” refers to [1] one or both of the orders described in the two previous sentences, or [2] the entire restraining order that is being requested.</p>	<p></p> <p>To track the statutory language of section 213.5 that includes all protected parties, the committee has revised this item to read: “You may ask the judge to protect animals that you own or are keeping for others, animals that the people in (4) own or are keeping for others, and animals that anyone who lives with you or the people in (4) own or are keeping for others.</p> <p>The committee has modified the language in response to the comment. The language noting that a court may choose not to grant this order has been removed.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Should it be clarified as follows? “The court may choose not to grant this order, the orders in 14 if it is shown the orders is are not needed.”</p>	
			<p>JV-245, p. 7</p> <p>Item 17: Change “one” to “a lawyer.”</p> <p>Your lawyer’s signature (<i>if you have one a lawyer</i>)</p>	<p>The committee concluded that the use of “one” is better for a plain language form as it is easier to read.</p>
			<p>JV-245, p. 7</p> <p>Headings in items 15, 16, and 17: For consistency with the rest of the form, use initial caps –</p> <p>Additional pPages Your sSignature Your ILawyer’s sSignature</p> <p>Your Next Steps, #1, first bullet point: Insert space between “<i>Order</i>” and “(<i>only</i>.”</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-247, p. 1</p> <p>Item 2: Suggested edits –</p> <p>Address where you can receive court papers</p> <p>... For privacy, you may use another address like a post office box or another person's address, if you have their permission and can get your mail there regularly. If you have a lawyer, work with them</p>	<p>See response above regarding instructions regarding mailing address.</p>

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	Commenter	Position	Comment	Committee Response
			<p>your lawyer to fill out this information form and give their your lawyer's information address.)</p> <p>Left footer: For consistency (see footer in JV-245), delete "and" in citation to California Rules of Court.</p> <p>JV-247, p. 1</p> <p>Your contact information <i>(optional)</i> If you have a lawyer, give their your lawyer's contact information.)</p> <p>Your lawyer's information <i>(if you have one a lawyer)</i></p> <p>JV-247, p. 1</p> <p>Left footer: For consistency (see footer in JV-245), delete "and" in citation to California Rules of Court.</p> <p>JV-247, pp. 2-4</p> <p>Item 5: Suggested edits –</p> <p>In item 2 of form JV-245, has if the person in 1 did not correctly described your relationship with the child?, use the space below to give the correct relationship.</p> <p>Yes No If no, what is your relationship with the child?:</p>	<p>The committee concluded that "their" and "one" are better for a plain language form.</p> <p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <p>The committee concluded that the existing format is easier to understand. Additionally, the committee has changed this item to ask about the relationship with the person in 1 (the person seeking protection) and has incorporated that change into the revisions it is recommending for adoptions.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-247, pp. 2-4</p> <p>Items 6, 7, 8, 9, 10, 11, 12, and 14: Suggested edits –</p> <p>Explain why you disagree, and/or describe a different order that you would agree to:</p>	<p>The style that has been approved for Judicial Council directs against using “and/or”, so the committee has not made this change.</p>
			<p>JV-247, pp. 2-4</p> <p>Items 11 and 12 are switched: Item 11 should be “Visitation of Children.” Item 12 should be “Protect Animals.”</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-247, pp. 2-4</p> <p>Item 13: Correct title of form JV-250; change item “7” to “6”; insert comma after “Firearm Parts.” If you were served with form JV-250, <i>Notice of Court Hearing and Temporary Restraining Order</i>, you must follow the orders in 7.6 on form JV-250. You may use form DV-800/JV-270, <i>Proof of Surrender of Firearms, Firearm Parts, and Ammunition</i>, for the receipt.</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-247, pp. 2-4</p> <p>Item 18: Change “one” to “a lawyer.”</p> <p>Your lawyer’s signature (<i>if you have one a lawyer</i>)</p>	<p>The committee concluded that the existing format is easier to understand.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-247, pp. 2-4</p> <p>Headings in items 16, 17, and 18: For consistency with the rest of the form, use initial caps –</p> <p>Additional pPages Your sSignature Your Lawyer’s sSignature</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-250, p. 1</p> <p>Item 2, after “*Age:” – Suggested edit: <i>(If unknown, gGive estimate, if age unknown.)</i></p>	<p>The committee has further revised this item, but concluded the item should mirror the language on the council’s DVPA forms: “Give estimate if you do not know exact age.”</p>
			<p>JV-250, p. 1</p> <p>Left footer: For consistency (see footer in JV-245), delete “and” in citation to California Rules of Court.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-250, p. 2</p> <p>... at on the court date listed in 4. (<i>Explain Reasons for denial</i>):</p>	<p>The committee concluded that the existing format is easier for parties to understand when reading the order.</p>
			<p>JV-250, p. 2</p> <p>Item 5b: Suggested edits – This does not always mean that every requested order that was requested was granted.</p> <p>Item 6d: Suggested edit; also, correct title of form –</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption with minor changes. 6e is now combined with 6d.</p>

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	Commenter	Position	Comment	Committee Response
			<p>... you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold.</p> <p>... Proof of Surrender of FFirearms, fFirearm PParts, or AAmmunition, for the receipt.)</p> <p>Item 6e: Suggested edits (see items 2 and 3 on form DV-800-INFO/JV-270-INFO) –</p>	
			<p>JV-250, p. 2</p> <p>Item 6e: Suggested edits (see items 2 and 3 on form DV-800-INFO/JV-270-INFO) –</p> <p>JV-250, p. 2</p> <p>If a law enforcement officer served you with the this restraining order, you must immediately surrender any prohibited items you have upon when the officer requests them by the officer. Within 48 hours, you must file a receipt with the court and a copy of the receipt with the law enforcement agency that proves to prove that the court and a copy of the receipt with the law enforcement agency that proves to prove that all prohibited items have been turned in, stored, or sold.</p>	<p>The committee recommends substantial modifications to the proposed revisions on this form. Where the revisions contain the text this commenter’s has made suggestions about, the committee has incorporated them.</p>
			<p>JV-250, p. 3</p> <p>Item 8: For consistency with item 4 –</p> <p>Name and address of court, if different than from than from court address listed on page 1</p> <p>Item 10: Change “repeatedly” to “repeated.”</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-250, p. 4</p> <p>Item 12b: Insert “contact or” before “visit.”</p> <p>For you to contact or visit with your children for court-ordered contact or visits.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-250, p. 5</p> <p>Item 15b: Insert “listed below” after “the animals.”</p> <p>You must not take, sell, hide, molest, attack, strike, threaten, harm, get rid of, transfer, or borrow against the animals listed below.</p> <p>Item 16b: Question – What does “and request form” refer to? Suggest that a specific reference to a form number be used instead if possible.</p> <p>Item 18: For consistency, use initial cap – Attached pPages</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-250, p. 5</p> <p>Certificate of Compliance with VAWA: In the last sentence, change “an order of that jurisdiction” to “the order of the enforcing jurisdiction.” (See 8 U.S.C. § 2265(a).)</p>	<p>Because this suggestion would entail changes to an important certificate that is on many Judicial Council forms using this same language, the committee believes public comment should be sought before recommending such a change. The committee may consider this suggestion during a future rules cycle.</p>
			<p>JV-250, p. 6</p> <p>Third paragraph (“Even if the protected person invites ...”): Delete or correct the statutory citation at the end of the paragraph. Nothing in PC</p>	<p>Subdivision (b) states that a protective order is enforceable notwithstanding the acts of the parties and may be changed only by order of the court.</p>

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	Commenter	Position	Comment	Committee Response
			<p>§ 13710(b) supports any of the statements in the paragraph.</p>	
			<p>JV-250, p. 6 Clerk’s Certificate: Change “Date” to “Hearing” and delete “Juvenile” in title of form. If desired to match the form of the title in the footers, insert “(Juvenile)” at the end of the title of the form.</p>	<p>The clerk’s certificate now reflects the name of the form.</p>
			<p>JV-251, p. 1 Item 1b(2): Change “one” to “a lawyer” – ... (skip if you do not have one a lawyer):</p>	<p>The committee concluded that the existing format is easier to understand.</p>
			<p>JV-251, p. 1 Left footer: For consistency (see footer in JV-245), delete “and” in citation to California Rules of Court.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-251, p. 2 Items 5 and 6: For consistency, use initial caps – Your sSignature Your #Lawyer’s sSignature</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-251, p. 2 Item 6: Change “one” to “a lawyer” –</p>	<p>The committee concluded that the existing format is easier to understand.</p>

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	Commenter	Position	Comment	Committee Response
			<p>... (if you have one-a lawyer)</p> <p>JV-253, p. 1 Line below item 2: Insert period at end of sentence.</p> <p>Left footer: Insert space between “304,” and “362,” (WIC citations). Center footer: Delete space between hyphen and “Juvenile)” in the second line.</p> <p>JV-253, p. 2 Items 5, 5a, 5c: Change “Court Date” to “Hearing.”</p> <p>Reason Court Date Hearing Is Rescheduled a. There is good cause to reschedule the court date hearing (check one):</p> <p>c. The court reschedules the court date hearing on its own motion.</p> <p>JV-253, p. 3 Item 7, 7a, 7b: Question – Does “this order” refer to the order rescheduling the hearing, to the new TRO that is attached to the JV-253, or both? It is confusing because the title of the item calls it a “Restraining Order,” not an “Order Rescheduling Hearing.”</p>	<p>The committee agrees with these suggestions and has incorporated them into the proposal that it is recommending for adoption.</p> <p>The committee concluded that “court date” is more appropriate for a plain language form than “court hearing.”</p> <p>“This order” is the order to reschedule and any attachment that is part of the order. The committee recommends deleting the word “Restraining” from the title of the item so it reads: “Enter Order Into Database.”</p>

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	Commenter	Position	Comment	Committee Response
			<p>If it refers only to the new TRO attached to the JV-253, suggested edits –</p> <p>Enter Attached Restraining Order into Database CLETS Within one business day, this the attached restraining order must be entered ...</p> <p>b. ... will send a copy of this the attached restraining order to a local law enforcement ...</p> <p>If it refers to either or both, suggested edits –</p> <p>Enter Restraining Order(s) into Database CLETS Within one business day, <input type="checkbox"/> this order <input type="checkbox"/> and the attached restraining order must be ...</p> <p>a. The court will enter the order(s) into CLETS.</p> <p>b. ... will send a copy of <input type="checkbox"/> this order <input type="checkbox"/> and the attached restraining order to a local ...</p> <p>Center footer: Delete space between hyphen and “Juvenile)” in the second line.</p> <p>JV-253, p. 3</p> <p>Suggested edit –</p> <p>If the court designates someone, provide their the person’s name:</p> <p>Item 9: For consistency, use initial cap – Attached pPages</p> <p>Instructions to Clerk: Suggested edits –</p>	<p>The committee agrees with these suggestions and has incorporated them into the proposal that it is recommending for adoption.</p> <p>The committee recommends keeping the language in the Instructions box the same as on the council’s DV forms. If the order to reschedule is</p>

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	Commenter	Position	Comment	Committee Response
			<p>If the hearing is rescheduled and/or if the court extended, modified, or terminated a temporary restraining order, then the court must enter this order the order(s) into CLETS or send this order the order(s) to law enforcement to enter into CLETS. This must be done by the court within one business day from the day the order is made, unless the court has designated someone the person named in item 7b.</p> <p>Center footer: Delete space between hyphen and “Juvenile)” in the second line.</p> <p>JV-255, p. 1 Item 2: Suggested edits –</p> <p><i>(If unknown, give estimate, if age unknown.)</i> (Information that has marked with a star (*) next to it is required to add this order into a California police database. ...</p> <p>JV-255, p. 1 Box near bottom of page: <i>(Certificate of VAWA compliance is on page 5.)</i></p> <p>“This order must be enforced throughout the United States. See page 4-5.”</p> <p>Left footer: For consistency (see footer in JV-245), delete “and” in citation to California Rules of Court.</p>	<p>granted, any order extending, modifying, or terminating the TRO must be attached to the rescheduling order (see item 9), so there is only one order. The instructions to the clerk inform them that the order must either be entered into CLETS or sent to law enforcement within one business day from the day that the order is made. This instruction is not directed at law enforcement.</p> <p>The committee concluded that the existing format is easier to understand.</p> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption with minor revision to reflect the change in pagination so that information regarding orders is listed on page 5-6.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-255, p. 2</p> <p>Item 5: Question – Is item 5c necessary in light of the information requested in item 6? If not, it can be deleted.</p> <p>Item 7d: Suggested edit; also, correct title of form –</p> <p>... you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold.</p> <p>... Proof of Surrender of fFirearms, fFirearm pParts, or aAmmunition, for the receipt.)</p>	<p>The committee agrees with this suggestion and has removed item 5c from the revision that it is recommending for adoption.</p> <p>The committee agrees with this suggestion and has incorporated it with minor changes into the revision that it is recommending for adoption.</p>
			<p>JV-255, p. 2</p> <p>Item 7e: Suggested edits (see items 2 and 3 on form DV-800-INFO/JV-270-INFO) –</p> <p>If a law enforcement officer served you with the this restraining order, you must immediately surrender any prohibited items you have upon when the officer requests them by the officer. Within 48 hours, you must file a receipt with the court and a copy of the receipt with the law enforcement agency that proves to prove that all prohibited items have been turned in, stored, or sold.</p> <p>Item 7f: Suggested edits –</p>	<p>The committee recommends substantial modifications to this proposed form. Where the revisions contain the text this commenter’s suggestions address, the committee has incorporated the suggestions into the revisions that it is recommending for adoption.</p>

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			<p>... but must only have it only during scheduled work hours and while traveling to and from their person's place of work. Note: Even if exempt under California law, the person in [insert space] 2 ...</p> <p>JV-255, p. 3 Item 9: Suggested edits –</p> <p>Restrained Person Has Not Complied With Surrendered Prohibited Items</p> <p>JV-255, p. 3 Item 9a: Suggested edit –</p> <p>“The Restrained person ...”</p> <p>Item 9b: Suggested edits (“within two days of today’s hearing” might be confusing if the hearing precedes a weekend or holiday) –</p> <p>If you do not provide a receipt or proof of compliance within two days of today's hearing, by: (date and time): _____, the court will notify the _____ (name of prosecuting agency): _____.</p>	<p>To be consistent with the committee’s proposed revisions on this topic in DV forms, the committee concluded that this item should read: Restrained Person Has Not Complied With Surrendering Prohibited Items</p> <p>The committee recommends substantial modifications to this proposed form. Where the revisions contain the text this commenter’s suggestions address, the committee has incorporated them into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-255, p. 3 Item 12: Change “repeatedly” to “repeated.”</p> <hr/> <p>JV-255, p. 4 Items 13b(1), (2): Suggested changes –</p> <p>... contact with the person in 1 to only to communicate about your child(ren) ...</p> <p>You may have contact or visit with your child(ren) ...</p> <p>Items 14b(1), (2): Suggested changes –</p> <p>... exchange your child(ren) for court-ordered visits. ...</p> <p>For you to contact or visit with your child(ren) ...</p> <p>Item 15: Delete hyphen from “Move-Out”</p> <hr/> <p>JV-255, p. 5 Item 17b: Insert “listed below” at the end of the sentence. Item 18: JV-251 should be JV-250 Item 18b(1): Insert “a copy of this order” after “(given)” and correct form number to JV-250.</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p> <hr/> <p>The committee agrees with these suggestions and has incorporated them, with minor alterations, into the revisions that it is recommending for adoption.</p> <hr/> <p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>This order can be served by mail. The judge’s orders in this form are the same as the orders in form JV-2540 except for the expiration date. The person in must be served (given) a copy of this order, either by mail or in person</p> <p>Item 18b(2): Correct form number to JV-250.</p> <p>Item 18b(3)(B): Insert space between “in” and “2”; delete space between “2” and apostrophe in “’s” (2’s).</p> <p>Item 19(b): Change ‘their’ to ‘the person’s’ before ‘name’ and blank line.</p>	
			<p>JV-255, p. 5</p> <p>Certificate of Compliance with VAWA: In the last sentence, change ‘an order of that jurisdiction’ to ‘the order of the enforcing jurisdiction.’ (See 8 U.S.C. § 2265(a).)</p>	<p>See response to this comment above.</p>
			<p>JV-255, p. 6</p> <p>Start Date and End Date</p> <p>The date next to the judge’s signature on this page 5.</p> <p>... If no date is listed, they end three years from the hearing date in item 5(a) on page 2.</p> <p>Arrest Required</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>... A violation of the order may be a violation of Penal Code Sections section 166 or 273.6.</p>	
			<p>JV-258: Throughout the form, there is inconsistency among the titles of the items. In some, all initials are capitalized (e.g., items 1, 6-11); in others, only the initial of the first word is capitalized (e.g., items 2, 3, 4, 5, 12, 13).</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>
			<p>JV-258 (throughout): avoid using me and you/your to describe the protected person, as that person may not be filling out the form</p>	<p>The committee thinks that it is important to be consistent with the plain language style used in the DV forms including the general use of “me” and “you” (directed toward self-represented parties), where that voice can be used clearly.</p>
			<p>JV-258, p. 1 Item 1a: Insert “a” before “lawyer”: If you are a lawyer asking ...</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-258, p. 1 Item 1c: Suggested edits – For privacy, you may use another address like a post office box or another person’s address, if you have their permission and can get your mail there regularly. If you have a lawyer, give their your lawyer’s information.)</p>	<p>See response above to comment on mailing address.</p>

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	Commenter	Position	Comment	Committee Response
			<p>JV-258, p. 1 Item 1d: Suggested edits – (If you have a lawyer, list give your lawyer's information. If you don't have a lawyer, you may provide give your information but doing so is optional if you wish.)</p> <p>Left footer: WIC citations should appear before CRC citations.</p> <p>JV-258, p. 2 Item 3a: Suggested edits (because the person filling out the form might be someone other than the person in item 1) – A judge can grant you a restraining order if the person in 1a is at risk because of the actions of the person in 2's actions. Explain why you need a restraining order is needed. Check here if you need more space to describe emotional or physical harm or to give more details. ... Item 3b: Suggested edits –</p>	<p>The committee agrees with the suggestion to use “give” instead of provide and has incorporated it into the form that it is recommending for adoption. The committee continues to recommend that the phrase “optional” remain in this item.</p> <p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p> <p>The committee agrees with these suggestions and has incorporated them, with minor alterations, into the form that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Check here if you know if there is a report that supports your request and that has been filed with the court, and complete the section below.</p> <p>Item 4: Suggested edits – Yes (if yes, list them give their information below)</p> <p>JV-258, p. 3</p> <p>Item 5a(1): Suggest changing “attorney” to “lawyer” for consistency throughout form.</p> <p>Item 6 title: Insert “the” before “Person in 2.”</p> <p>Item 6c: Insert “what” before “amount” (How many or what amount?).</p> <p>JV-258, p. 4</p> <p>Question: Why are there no options to ask the judge for a stay-away order or a move-out order? (See WIC § 213.5(b) [orders enjoining a person from “contacting ... by mail or otherwise, coming within a specified distance of, ... the child or any other child in the household; (2) excluding a person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, ... a person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child], § 213.5(d) [orders after hearing]; see also proposed JV-245, items 9 and 10.)</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p> <p>This request form is for a restraining order against a child in a juvenile delinquency case. The orders a judge can make in that case are limited under Welfare and Institutions Code section 213.5(b) to orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of a person whom the court finds to be at risk from the conduct of the child.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Item 7: First sentence – Question: Why does this sentence limit the request to orders “to not threaten, stalk, or disturb the peace ...” Shouldn’t it also include the requested orders in item 7 on the JV-245 form (“Harass, attack, strike ...”)? (See WIC § 213.5(b).)</p> <p>JV-258, p. 4</p> <p>Item 7, par. 2: Suggested edits in bullet points (because the person requesting the RO might not be a person listed in item 1 or item 4) –</p> <p>Destroying you-someone’s mental or emotional well-being, ...</p> <p>Isolating you-someone from friends, relatives, or other support; keeping you-someone from food or basic needs; controlling or keeping track of you-someone, including you that person’s movements, contacts, ... and making you someone do something by force, threat, or intimidation, ...</p> <p>Item 8: Suggested edits –</p> <p>I ask that judge to order the person in 2 to not contact me or any person listed in 1 or 4.</p> <p>Item 9a: Suggested edits (WIC § 213.5(b) [“an animal owned, possessed, leased, kept, or held by a person protected by the restraining order, or</p>	<p>The committee does agree with the change in the description of abuse suggestions and has incorporated those suggestions, with minor alterations, into the revisions that it is recommending for adoption.</p> <p>See response on this issue above.</p>

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			<p>residing in the residence or household of a person protected by the restraining order”] does not authorize the court to issue an order protecting the animals of the person in 2) –</p> <p>(You may ask the court judge to protect your the animals, your children’s animals, or the person in 2’s animals that belong to the person in 1 or anyone who lives with that person.)</p> <p>Item 9b: Suggested edits –</p> <p>Give me the person in 1 sole possession, care, and control of the animals because ...</p> <p>¶ The person in 1 purchased these animals. ¶ The person in 1 takes care of these animals.</p> <hr/> <p>JV-258, p. 5</p> <p>Item 10: Suggested edits –</p> <p>If the judge grants you a restraining order, the person in 2 must will have to turn in, sell, or store any guns, other firearms, firearm parts, or ammunition that they have or control person has or controls. The person in 2 would also be prohibited from buying firearms and ammunition.</p> <p>Item 11: Insert ‘order’ at the end of the first sentence (restraining order).</p>	<p>The committee thinks that it is important to be consistent with the plain language style used in the DV forms including the general use of “me” and “you” (directed toward self-represented parties), where that voice can be used clearly.</p> <hr/> <p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Item 11: Suggested edits (see, e.g., JV-245, item 14) –</p> <p>The court may choose not to grant this order, if there is good cause if it is shown the order is not needed.</p>	<p>The committee does not recommend making this change; the council’s DV forms use the legal phrase “good cause,” and the committee is recommending that the forms be consistent where possible.</p>
			<p>JV-259, p. 1 Instructions, third sentence: Insert “the” before “form JV-258” (You will need a copy of the form JV-258 ... that was filled out by the person ...).</p>	<p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p>
			<p>JV-259, p. 1 Item 2: Suggested edits –</p> <p>For privacy, you may use another address like a post office box or another person’s address, if you have their permission and can get your mail there regularly. If you have a lawyer, work with them your lawyer to fill out this form and give their your lawyer’s information.)</p>	<p>See response above to this point.</p>
			<p>JV-259, p. 1 If you have a lawyer, give their your lawyer's information.</p> <p>Your lawyer’s information (<i>if you have one-a lawyer</i>)</p> <p>Item 3: Suggested edits –</p>	<p>The committee recommends keeping the language as stated currently to be consistent with the council’s DV forms.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>Your hearing date is listed in 4 on form JV-260 ... If you do not agree to having a restraining order against you, go to your hearing date.</p> <p>JV-259, p. 2 Items 5, 6, 7, 8: Suggested edits – Explain why you disagree, and/or describe a different order that you would agree to:</p> <p>JV-259, p. 3 Item 9: Insert comma after “<i>Against a Child</i>” in 1st sentence and after “<i>Firearm Parts</i>” in the 3rd sentence.</p> <p>Item 9b: Suggested edits –</p> <p>I have turned in all prohibited items that I have or control to law enforcement or I have sold/stored them to or stored them with a licensed gun dealer. ...</p> <p>Item 10: Suggested edit – Explain why you disagree, and/or describe a different order that you would agree to</p> <p>JV-259, p. 4 Item 13: Your sSignature Item 14: Your hLawyer’s sSignature <i>(if you have one-a lawyer)</i></p>	<p>See response above; the council’s form style directs against the use of and/or.</p> <p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p> <p>The committee agrees with the capitalization suggestions and has incorporated those into the form that it is recommending for adoption. It recommends keeping “one” to be consistent with the council’s DV forms, and because that is shorter.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>JV-260, p. 1</p> <p>Title: For consistency with JV-250, insert “Notice of” before “Court Hearing” (Notice of Court Hearing and Temporary ...). Note: If this change is adopted, the center footers of JV-260, the clerk’s certificate on page 5, and the references to JV-260 in other forms will need to be changed as well.</p>	<p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p>
			<p>JV-260, p. 1</p> <p>Item 2: Suggested edits –</p> <p>(If unknown, give estimate, if age unknown.)</p>	<p>The committee concluded this item should mirror the language on the council’s DV forms: “Give estimate, if age unknown.”</p>
			<p>JV-260, p. 1</p> <p>Item 2: Suggested edits –</p> <p>(Information that has marked with a star (*) next to it is required to add this order into a California police database. ...)</p>	<p>The committee concluded that the existing format is easier to understand.</p>
			<p>JV-260, p. 1</p> <p>Item 4 title: For consistency with JV-250, add “Date” (Notice of Hearing Date).</p> <p>Item 4: For consistency with JV-250, replace colon with period after “the person in 2” and add, “Any temporary orders granted on this form end on the court date listed below.”</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>JV-260, pp. 2-5 Center footers use “Court Date” instead of “Court Hearing” (see title and center footer on page 1). Also, if title on page 1 is changed to “Notice of Court Hearing” as suggested above, these footers should be changed accordingly.</p> <p>JV-260, p. 2 Item 5b: Suggested edits – This does not always mean that every requested order that was requested was granted. Box beneath item 5b: Change 5 to 4 (See page 4.) Item 6d: Suggested edits – Within 48 hours of receiving this order, you must file a receipt with the court to prove that all prohibited items have been turned in, stored, or sold.</p> <p>Item 6e: Suggested edits – If a law enforcement officer served you with the this restraining order, you must immediately surrender any prohibited items you have upon when the officer requests them by the officer. Within 48 hours, you must file a receipt with the court and a copy of the receipt with the law enforcement agency that proves to prove that all prohibited items have been turned in, stored, or sold.</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p> <p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p> <p>The committee recommends substantial modifications to the proposed form. Where the revisions contain this commenter’s suggestions to improve grammar, the committee has incorporated them into the revisions that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>JV-260, p. 3</p> <p>Item 7: For consistency with JV-250, delete “firearms, firearm parts, or ammunition” (The court finds that you have the following: firearms, firearm parts, or ammunition).</p>	<p>The committee concluded that this item should read: “The court finds that you have the following prohibited items:”</p>
			<p>Item 8: For consistency with item 4 –</p> <p>Name and address of court, if different than from court address listed on page 1</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-260, p. 3</p> <p>Item 10: For consistency with JV-250, suggested changes:</p> <p>You must not threaten, stalk or disturb the peace of do the following things to the person in 1 and any person listed in 3:</p> <p>Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.</p>	<p>This form is for a restraining order against a child in a juvenile delinquency case. The orders a judge can make in those cases are limited in Welfare and Institutions Code section 213.5(b) to orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of a person the court finds to be at risk from the conduct of the child.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>JV-260, p. 4 Question: Why are there no items for stay-away orders or move-out orders? (See WIC § 213.5(b) [orders enjoining a person from “contacting ... by mail or otherwise, coming within a specified distance of ... the child or any other child in the household; (2) excluding a person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting ... a person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child], § 213.5(d) [orders after hearing]; see also JV-250, items 12 and 13).</p> <p>Note: If these items are added, the subsequent items will need to be renumbered.</p>	<p>This form is for a restraining order against a child in a juvenile delinquency case. The orders a judge can make in those cases are limited in Welfare and Institutions Code section 213.5(b) to orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of a person the court finds to be at risk from the conduct of the child.</p>
			<p>JV-260, p. 4 Item 12b: Insert “listed below” after “against the animals.”</p> <p>Item 13a: Insert space between 2 and “attended.”</p> <p>Item 14b: Change “their” to “that person’s” before “name.”</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-260, p. 4 Certificate of Compliance with VAWA: In the last sentence, change “an order of that jurisdiction” to</p>	<p>Because this suggestion would entail important substantive changes to the proposal, the committee believes public comment should be sought before it is considered for adoption. The committee may</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>“the order of the enforcing jurisdiction.” (See 8 U.S.C. § 2265(a).)</p>	<p>consider this suggestion during a future rules cycle.</p>
			<p>JV-260, p. 5</p> <p>Third paragraph (“Even if the protected person invites ...”): Delete or correct the statutory citation at the end of the paragraph. Nothing in PC § 13710(b) supports any of the statements in the paragraph.</p>	<p>The committee has determined that the Penal Code citation supports this statement: The orders can be changed only by another court order.</p>
			<p>Clerk’s Certificate: Change “Date” to “Hearing”; if title on page 1 is changed to “Notice of Court Hearing” as suggested above, change title to “Notice of Court Hearing and Temporary Restraining Order Against a Child.”</p>	<p>The committee agrees with this suggestion and has incorporated it into the revisions that it is recommending for adoption.</p>
			<p>JV-265, p. 1</p> <p>Item 2: Suggested edits –</p> <p><i>(If unknown, gGive estimate, if age unknown.)</i></p>	<p>The committee concluded this item should mirror the language on the DVPA forms: “Give estimate, if age unknown”</p>
			<p>JV-265, p. 1</p> <p>Item 2: Suggested edits –</p> <p>(Information that has marked with a star (*) next to it is required to add this order into a California police database. ...</p>	<p>The committee concluded that the existing format is easier to understand.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>JV-265, p. 1</p> <p>Item 3: Change “items 7 through 10” to “items 11 through 14.”</p> <p>Boxed sentence below item 4: Change 4 to 5 – “See page 4-5.”</p>	<p>The committee agrees with these suggestions and has incorporated them, with slight modification, into the revisions that it is recommending for adoption.</p>
			<p>Item 4: Change – “This restraining order, except the orders noted below,* ends on:</p>	<p>The committee concluded that this item should be consistent with form JV-255 and recommends adding “*Custody and visitation orders remain in effect after the restraining order ends. Custody and visitation orders usually end when the child is 18.”</p>
			<p>JV-265, p. 2</p> <p>Item 5: Question – Is item 5c necessary in light of the information requested in item 6? If not, it can be deleted.</p> <p>Item 7d: Suggested edit; also, correct title of form –</p> <p>... you must file a receipt with the court that proves all prohibited items have been turned in, stored, or sold.</p>	<p>The committee agrees with these suggestions and has incorporated them into the revisions that it is recommending for adoption.</p>
			<p>JV-265, p. 2</p> <p>Item 7e: Suggested edits (see items 2 and 3 on form DV-800-INFO/JV-270-INFO) –</p>	<p>The committee recommends substantial revisions to this form. Where the revisions contain this commenter’s suggestions to improve grammar, the committee has incorporated them into the revisions that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>If a law enforcement officer served you with the this restraining order, you must immediately surrender any prohibited items you have upon when the officer requests them by the officer. Within 48 hours, you must file a receipt with the court and a copy of the receipt with the law enforcement agency that proves to prove that all prohibited items have been turned in, stored, or sold.</p>	
			<p>JV-265, p. 3 Item 8: For consistency with JV-255, change as indicated — “The court finds that you have the following firearms, firearm parts, or ammunition:”</p>	<p>The committee concluded that this item should read: “The court finds that have the following prohibited items:”</p>
			<p>Question: Item 8 on the JV-255 does not include the check box with the text “Check here if you need more space...,” Should this be deleted from the JV-265?</p>	<p>The committee has added a check box and text where the person filling out the restraining order can indicate they need more space.</p>
			<p>Item 9: Suggested edit – Restrained Person Has Not Complied With Surrendering Prohibited Items Item 9a: Suggested edit –</p>	<p>To be consistent with the DV forms, the committee concluded that this item should read: Restrained Person Has Not Complied With Surrendering Prohibited Items</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>“The Rrestrained person ...”</p> <p>Item 9b: Suggested edits (“within two days of today’s hearing” might be confusing if the hearing precedes a weekend or holiday) – If you do not provide a receipt or proof of compliance within two days of today's hearing, by: <i>(date and time)</i>: _____, the court will notify the _____ <i>(name of prosecuting agency)</i>: _____.</p> <hr/> <p>JV-265, p. 4</p> <p>Item 12: For consistency with JV-250, suggested changes:</p> <p>You must not threaten, stalk or disturb the peace of do the following things to the person in 1 and any person listed in 3.:</p> <p>Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, keep under surveillance, impersonate (on the internet, electronically, or otherwise), block movements, annoy by phone or other electronic means (including repeated contact), or disturb the peace.</p> <p>Question: Why are there no items for stay-away orders or move-out orders? (See WIC § 213.5(b) [orders enjoining a person from “contacting ... by mail or otherwise, coming within a specified</p>	<p>The committee recommends substantial modifications to this form. Where the revisions contain text that this commenter’s suggestions address, the committee has incorporated them into the form that it is recommending for adoption.</p> <hr/> <p>This form is for a restraining order against a child in a juvenile delinquency case. The orders a judge can make in that case are limited under Welfare and Institutions Code section 213.5(b) to orders enjoining the child from contacting, threatening, stalking, or disturbing the peace of a person the court finds to be at risk from the conduct of the child. For that reason, only those actions are listed in the form.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>distance of ... the child or any other child in the household; (2) excluding a person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting ... a person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child], § 213.5(d) [orders after hearing]; see also JV-255, items 14 and 15).</p> <p>Note: If these items are added, the subsequent items will need to be renumbered.</p>	
			<p>JV-265, p. 4</p> <p>Item 14b: Insert “listed below” after “against the animals.”</p>	<p>The committee agrees with this suggestion and has incorporated it into the form that it is recommending for adoption.</p>
			<p>JV-265, p. 5</p> <p>Item 15b(1): Change “JV-251” to “JV-260” in the 2nd sentence; insert “a copy of this order” after “(given)” in the 3rd sentence.</p> <p>Item 15b(2): Change “JV-251” to “JV-260” in the 2nd sentence.</p> <p>Item 15b(3)(B): Insert space between “in” and “2”; delete space between “2” and “s” (2’s).</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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

	Commenter	Position	Comment	Committee Response
			<p>Item 16b: Change “their” to “the person’s” (“their the person’s name”).</p> <p>Start Date and End Date: suggested edit –</p> <p>... If no date is listed, they end three years from the hearing date in item 5(a) on page 2.</p>	
			<p>JV-265, p. 5 Certificate of Compliance with VAWA: In the last sentence, change “an order of that jurisdiction” to “the order of the enforcing jurisdiction.” (See 8 U.S.C. § 2265(a).)</p>	<p>See response to this point above.</p>
			<p>JV-265, p. 6 Clerk’s certificate: Insert “(<i>Juvenile</i>)” after “<i>Against Child</i>” in title of form (“I certify that ...”).</p>	<p>The committee agrees with this suggestion and has incorporated the full title into the form that it is recommending for adoption.</p>
			<p>JV-268 Item 3, 2nd bullet point:</p> <p>Not be listed in items 1, 2, or 3-4 of form JV-245, <i>Request for Juvenile Restraining Order</i> or items 1, 2, of 5 of form JV-258, <i>Request for Juvenile Restraining Order Against a Child</i>.</p>	<p>The committee concluded that the existing item is clearer.</p>
			<p>JV-272, p. 1 First line: Change “JV-254” to “JV-255” and add a check box for JV-265.</p>	<p>The committee agrees with these suggestions and has incorporated them into the form that it is recommending for adoption.</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>Item 1: Suggested edits –</p> <p>The court finds that you have the restrained person has the firearms, ...</p> <p>Left footer: Add a section symbol (§) after “Family Code.”</p>	
			<p>JV-272, p. 1</p> <p>Item 2: Suggested edit –</p> <p>Name and address of court, if different than from court address listed on the front of this order first page of the temporary restraining order or order after hearing.</p>	<p>The committee concluded that the existing item is clearer.</p>
			<p>JV-272, p. 2</p> <p>Item 3: Suggested edit –</p> <p>Restrained Person Has Not Complied With Surrendered Prohibited Items</p> <p>Item 3b: Suggested edits (“within two days of today’s hearing” might be confusing if the hearing precedes a weekend or holiday) –</p> <p>If you do not provide a receipt or proof of compliance within two days of today's hearing,</p>	<p>To be consistent with the DV forms that the committee is recommending to the council, the committee concluded that this item should read: Restrained Person Has Not Complied With Surrendering Prohibited Items</p> <p>For that same reason, the committee concluded that this item should read: The court will notify the following prosecuting agency of this violation (<i>prosecuting agency</i>): _____ ”</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>by: <i>(date and time)</i>: _____, the court will notify the _____ <i>(name of prosecuting agency)</i>: _____</p> <p>JV-274, p. 1 Title: Insert “Notice of” before “Noncompliance” for consistency with title in footers.</p> <p>Item 4: Suggested edits –</p> <p>... A copy of tThe restraining order granted by the court is attached to this form.</p> <p>Notice of the warrant(s) is provided given to the agency listed below</p> <p>Item 3: Suggested edits –</p> <p>Restrained Person Has Not Complied With Surrendering Firearms, Firearm Parts, and Ammunition Prohibited Items</p> <p>Item 3: Suggested edits –</p> <p>... A copy of tThe restraining order granted by the court is attached to this form.</p> <p>Notice is given to the prosecuting agency or agencies <i>(name(s) of agency or agencies)</i>: _____ as provided under Family Code ...</p>	<p>The committee recommends that the form name be consistent with the name of the DV order that it is recommending to the council, and does not recommend adding “Notice of” at the beginning of the forms. It agrees with the other suggestions and has incorporated them into the form that it is recommending for adoption.</p> <p>To be consistent with the DV forms that the committee is recommending to the council, the committee concluded that this item should read: Restrained Person Has Not Complied With Surrendering Prohibited Items</p> <p>The committee agrees with this suggestion and has incorporated them into the form that it is recommending for adoption.</p> <p>The committee recommends following the DV forms that the committee is recommending to the</p>

Rules and Forms: Juvenile Law: Restraining Orders, SPR22-24

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	Commenter	Position	Comment	Committee Response
			<p>JV-274, p. 2 Clerk’s certificate: Suggested edits –</p> <p>I certify that I am not a party to this case and that a true copy of the <i>Notice of Non-Compliance Noncompliance with Firearms, and Ammunition, or Warrant Order</i> (form JV-274), ...</p> <p>Question: Should another block of check boxes and blanks be provided in case service is made to more than one prosecuting agency (e.g., city attorney and district attorney of city/county)</p>	<p>council, and identifying a single agency for prosecution on this form.</p> <p>The committee will make the form names consistent.</p> <p>The committee recommends keeping this consistent with the DV forms that the committee is recommending to the council, which provide for only one prosecuting agency.</p>

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date: 8/18/2022

Rules Committee action requested [Choose from drop down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Rules and Forms: Miscellaneous Technical Changes to Criminal Rules and Forms

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

Amend Cal. Standards of Judicial Administration, standard 4.30; revise forms CR-110/JV-790, CR-112/JV-792, CR-290, CR-292

Committee or other entity submitting the proposal:

Staff

Staff contact (name, phone and e-mail): Sarah Fleischer-Ihn, 415-865-7702, sarah.fleischer-ihn@jud.ca.gov

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

Annual agenda approved by Rules Committee on (date): 11/2/21

Project description from annual agenda: Review enacted legislation that may have an impact on criminal court administration and propose rules and forms as may be appropriate for implementation of the legislation.

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

This proposal was not circulated for public comment because the recommended changes are corrections, technical revisions, and minor modifications that are unlikely to create controversy, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

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

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

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

This proposal:

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

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

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

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

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



JUDICIAL COUNCIL OF CALIFORNIA

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-146

For business meeting on: September 19–20, 2022

Title

Rules and Forms: Miscellaneous Technical
Changes to Criminal Rules and Forms

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Standards of Judicial
Administration, standard 4.30; revise forms
CR-110/JV-790, CR-112/JV-792, CR-290,
CR-292

Recommended by

Judicial Council staff
Sarah Fleischer-Ihn, Attorney
Criminal Justice Services

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Date of Report

August 12, 2022

Contact

Sarah Fleischer-Ihn, 415-865-7702
sarah.fleischer-ihn@jud.ca.gov

Executive Summary

Judicial Council staff recommend amending standard 4.30 of the California Standards of Judicial Administration to refer to a renumbered form, and revising four criminal forms to incorporate changes resulting from legislation. The changes are technical, minor, and noncontroversial. Judicial Council staff recommend making the necessary corrections to conform to statutes and rules and avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective January 1, 2023:

1. Amend standard 4.30 of the California Standards of Judicial Administration to replace references to the *Juror Questionnaire for Criminal Cases* from form MC-002 to form JURY-002, to reflect the renumbering of the form effective September 1, 2018;

2. Revise *Order for Victim Restitution* (form CR-110/JV-790) to delete a reference to administrative fees pursuant to former Penal Code section 1203.1(l), which was repealed by Assembly Bill 177 (Stats. 2021, ch. 257), and add mental health counseling fees as a restitution category pursuant to Penal Code section 1202.4(f)(3)(C);
3. Revise *Instructions: Order for Victim Restitution* (form CR-112/JV-792) to reflect proposed changes to *Order for Victim Restitution* (form CR-110/JV-790); and
4. Revise *Felony Abstract of Judgment—Determinate* (form CR-290) and *Abstract of Judgment—Prison Commitment—Indeterminate* (form CR-292) to replace references to resentencing under former Penal Code section 1170(d) with Penal Code section 1172.1, to reflect changes made by Assembly Bill 200 (Stats. 2022, ch. 58).

The proposed amended standard and revised forms are attached at pages 4–12.

Relevant Previous Council Action

Although the Judicial Council has acted on the forms previously, this proposal recommends only minor corrections unrelated to any prior action.

Analysis/Rationale

The changes to these forms are technical in nature and necessary to conform to statutory changes and correct references.

Policy implications

This proposal promotes accuracy and consistency with statutes and forms.

Comments

This proposal was not circulated for public comment because the recommended changes are corrections, technical revisions, and minor modifications that are unlikely to create controversy, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

Revising the forms later, alongside more substantive revisions, was considered. However, revising the forms at this time appears to be the better option, to avoid courts and court users continuing to rely on inaccurate forms for an unforeseen amount of time.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are minor or technical corrections, case management systems are unlikely to need updating to implement them.

Attachments and Links

1. Cal. Stds. Jud. Admin., std. 4.30, at page 4
2. Forms CR-110/JV-790, CR-112/JV-792, CR-290, CR-292, at pages 5–12

Standard 4.30 of the California Standards of Judicial Administration is amended, effective January 1, 2023, to read:

1 **Standard 4.30. Examination of prospective jurors in criminal cases**

2
3 (a) * * *

4
5 (b) **Examination of jurors**

6
7 The trial judge’s examination of prospective jurors in criminal cases should include
8 the areas of inquiry listed below and any other matters affecting their qualifications
9 to serve as jurors in the case. The trial judge may want to use the *Juror*
10 *Questionnaire for Criminal Cases* (form JURYMC-002) to assist in the
11 examination of prospective jurors. Form JURYMC-002 is an optional form and is
12 not intended to constitute the complete examination of prospective jurors. Form
13 JURYMC-002 is a tool for trial judges to use to make the initial examination of
14 prospective jurors more efficient. If the court chooses to use form JURYMC-002,
15 its use and any supplemental questions submitted by counsel must be discussed at
16 the pre–voir dire conference required by rule 4.200. Excusing jurors based on
17 questionnaire answers alone is generally not advisable.

18
19 (1)–(27) * * *

20
21 (c) * * *

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
ORDER FOR VICTIM RESTITUTION	CASE NUMBER:

1. a. On (date): _____ defendant (name): _____
 was convicted of a crime that entitles the victim to restitution.
 - b. On (date): _____ child (name): _____
 was found to be a person described in Welfare and Institutions Code section 602,
 which entitles the victim to restitution. Wardship is terminated.
 - c. Parents or guardians jointly and severally liable (name each): _____
 - d. Co-offenders found jointly and severally liable (name each): _____
2. Evidence was presented that the victim named below suffered losses as a result of defendant's/child's conduct. Defendant/child was informed of his or her right to a judicial determination of the amount of restitution and
- a. a hearing was conducted.
 - b. stipulated to the amount of restitution to be ordered.
 - c. waived a hearing.
3. **THE COURT ORDERS** defendant/child to pay restitution to
- a. the victim (name): _____ in the amount of: \$ _____
 - b. the California Victim Compensation Board, to reimburse payments to the victim from the Restitution Fund,
 in the amount of: \$ _____
 - c. plus interest at 10 percent per year from the date of loss or sentencing.
 - d. plus attorney fees and collection costs in the sum of: \$ _____

CASE NAME:

CASE NUMBER:

4. The amount of restitution includes

- a. the value of property stolen or damaged.
- b. medical expenses.
- c. mental health counseling expenses.
- d. lost wages or profits
- (1) incurred by the victim due to injury.
- (2) of the victim's parent(s) or guardian(s) (if victim is a child) incurred while caring for the injured child.
- (3) incurred by the victim due to time spent as a witness or in assisting police or prosecution.
- (4) of the victim's parent(s) or guardian(s) (if victim is a child) due to time spent as a witness or in assisting police or prosecution.
- e. noneconomic losses (felony violations of Pen. Code, § 288, 288.5. and 288.7 only).
- f. Other (*specify*):

Date:

 JUDICIAL OFFICER
NOTICE TO VICTIMS

PENAL CODE SECTION 1214 PROVIDES THAT ONCE A DOLLAR AMOUNT OF RESTITUTION HAS BEEN ORDERED, THE ORDER IS THEN ENFORCEABLE AS IF IT WERE, AND IN THE SAME MANNER AS, A CIVIL JUDGMENT. ALTHOUGH THE CLERK OF THE COURT IS NOT ALLOWED TO GIVE LEGAL ADVICE, YOU ARE ENTITLED TO ALL RESOURCES AVAILABLE UNDER THE LAW TO OBTAIN OTHER INFORMATION TO ASSIST IN ENFORCING THE ORDER.

THIS ORDER DOES NOT EXPIRE UNDER PENAL CODE SECTION 1214(d).

YOU MUST FILE A SATISFACTION OF JUDGMENT WITH THE COURT WHEN THIS ORDER IS SATISFIED, AS REQUIRED BY PENAL CODE SECTION 1214(b).

YOU ARE ENTITLED TO A CERTIFIED COPY OF THIS ORDER UPON REQUEST, AS REQUIRED BY PENAL CODE SECTION 1214(b) AND WELFARE AND INSTITUTIONS CODE SECTION 730.7(c).

INSTRUCTIONS: ORDER FOR VICTIM RESTITUTION

A. Attorney or Person Without Attorney

Write the name of your attorney. If you are representing yourself, your name goes here.

B. Telephone Number

Your telephone number goes here. You may also give a number where the court can leave a message for you.

C. Fax Number

You may write in your fax number here or you may leave this line blank.

D. E-mail Address

You may write in your e-mail address here or you may leave this line blank.

E. Name and Address of Court

Ask the clerk of your court for this information, including the court's address.

F. Case Name

Use the assigned case name. Example: *In re John D.* or *People of the State of California v. Doe.*

G. Case Number

Write the assigned case number in this space. You need to write this number at the top of every page of this form.

H. For Court Use Only

Leave blank. After this form is filed, the clerk will stamp this box on the copies so everyone knows they are copies of an official court document.

I. Order for Restitution

- If the person was convicted in criminal court, write in the date of the defendant's conviction and the defendant's name.
- In cases where a child has been found to be a person described in Welfare and Institutions Code section 602, check item b and fill in the date of the hearing and the child's name.
- If the parents or guardians are jointly and severally liable, write the names in the space provided.
- If co-offenders were found jointly and severally liable, write the names in the space provided.

This section must be completed by either you or the court. A separate order and abstract of judgment should be completed for each defendant or child ward found guilty of an offense.

J. Judicial Determination of Restitution

The defendant or child has a right to a restitution hearing. The hearing can be waived if the defendant or child agrees to give up his or her right to have a hearing. The amount of restitution may also be stipulated if the amount of restitution to be ordered is agreed to by all parties and the judge makes an order for the amount based on an agreement by all parties. It is very important to check the appropriate boxes to indicate whether the defendant or child has had a hearing or has waived the hearing. If you do not have all of the relevant information to complete this section, then the court should complete it for you.

K. Restitution Ordered to Pay

- If the court ordered the offender to pay you, write your name as the victim and the amount of restitution ordered by the court. Make sure the amount of restitution is not left blank or "to be determined." A dollar amount must be listed for the order to be enforceable.
- Check this box if the court ordered the California Victim Compensation Board to receive reimbursement for funds previously paid to you or your service provider by the Restitution Fund. Make sure the amount of reimbursement is not left blank or "to be determined." A dollar amount must be listed for the order to be enforceable.

CR-110/JV-790

FOR COURT USE ONLY

ORDER FOR VICTIM RESTITUTION

Page 1 of 2

Form Approved for Optional Use
Judicial Council of California
CR-110/JV-790 [Rev. January 1, 2023]

ORDER FOR VICTIM RESTITUTION

Penal Code, §§ 1202.49, 1214,
Welfare and Institutions Code, § 730.60(a), (b),
Civil Code, § 1714.1, Code of Civil Procedure, § 674(a)(7)
www.courts.ca.gov

L. Case Name and Number

Use the case name and case number that you wrote on the front of the form.

M. Amount of Restitution

Check the applicable boxes a through e that specify why the restitution was ordered. Example: If the court ordered that you collect medical expenses and lost wages, check boxes 4b and 4d. If the amount of restitution includes something that is not listed, check box 4f and briefly specify what additional costs are covered.

CR-110/JV-790

CASE NAME: _____ CASE NUMBER: _____

4. The amount of restitution includes

a. the value of property stolen or damaged.

b. medical expenses.

c. mental health counseling expenses.

d. lost wages or profits

(1) incurred by the victim due to injury.

(2) of the victim's parent(s) or guardian(s) (if victim is a child) incurred while caring for the injured child.

(3) incurred by the victim due to time spent as a witness or in assisting police or prosecution.

(4) of the victim's parent(s) or guardian(s) (if victim is a child) due to time spent as a witness or in assisting police or prosecution.

e. noneconomic losses (felony violations of Pen. Code, § 288, 288.5, and 288.7 only).

f. Other (specify): _____

Date: _____ JUDICIAL OFFICER _____

NOTICE TO VICTIMS

PENAL CODE SECTION 1214 PROVIDES THAT ONCE A DOLLAR AMOUNT OF RESTITUTION HAS BEEN ORDERED, THE ORDER IS THEN ENFORCEABLE AS IF IT WERE, AND IN THE SAME MANNER AS, A CIVIL JUDGMENT. ALTHOUGH THE CLERK OF THE COURT IS NOT ALLOWED TO GIVE LEGAL ADVICE, YOU ARE ENTITLED TO ALL RESOURCES AVAILABLE UNDER THE LAW TO OBTAIN OTHER INFORMATION TO ASSIST IN ENFORCING THE ORDER.

THIS ORDER DOES NOT EXPIRE UNDER PENAL CODE SECTION 1214(d).

YOU MUST FILE A SATISFACTION OF JUDGMENT WITH THE COURT WHEN THIS ORDER IS SATISFIED, AS REQUIRED BY PENAL CODE SECTION 1214(b).

YOU ARE ENTITLED TO A CERTIFIED COPY OF THIS ORDER UPON REQUEST, AS REQUIRED BY PENAL CODE SECTION 1214(b) AND WELFARE AND INSTITUTIONS CODE SECTION 730.7(c).

CR-110/JV-790 [Rev. January 1, 2023] **ORDER FOR VICTIM RESTITUTION** Page 2 of 2

Order for Victim Restitution (form CR-110/JV-790) is the court order or judgment directing the offender to repay you for any losses that you suffered because of the offense. Once this judgment is entered in the court records, you may use it to collect the money you are owed from the offender. If the court does not give you a certified copy of the order, ask the clerk for one and check to make sure the judgment is entered. If the offender does not pay you, you have several options, including getting the offender to pay you voluntarily, getting more information about the offender, and collecting from the offender's property. If you choose to try to collect from the value of real estate owned by the offender, you will need to record an abstract of the judgment with the county recorder in the county where the property is located. For more information about this process, see *Abstract of Judgment—Restitution* (form CR-111/JV-791) and *Instructions: Abstract of Judgment—Restitution* (form CR-113/JV-793). For more information about this and other options for collecting your restitution judgment, see the California Courts Online Self-Help Center at www.courts.ca.gov/1014.htm.

FELONY ABSTRACT OF JUDGMENT—DETERMINATE
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED)

CR-290

SUPERIOR COURT OF CALIFORNIA, COUNTY OF:		DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	DOB: -A	
AKA:	-B	
CII NO.:	-C	
BOOKING NO.: <input type="checkbox"/> NOT PRESENT		-D
FELONY ABSTRACT OF JUDGMENT <input type="checkbox"/> PRISON COMMITMENT <input type="checkbox"/> COUNTY JAIL COMMITMENT <input type="checkbox"/> AMENDED ABSTRACT		
DATE OF HEARING	DEPT. NO.	JUDGE
CLERK	REPORTER	PROBATION NO. OR PROBATION OFFICER <input type="checkbox"/> IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE		COUNSEL FOR DEFENDANT <input type="checkbox"/> APPOINTED

1. Defendant was convicted of the commission of the following felonies:

Additional counts are listed on attachment _____ (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YR.)	CONVICTED BY			TERM (L, M, U)	CONCURRENT	1/3 CONSECUTIVE	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (REFER TO item 5)	654 STAY	SERIOUS FELONY	VIOLENT FELONY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED	
						JURY	COURT	PLEA									YRS.	MOS.
					/ /													
					/ /													
					/ /													
					/ /													
					/ /													
					/ /													

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

COUNT	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

3. ENHANCEMENTS charged and found to be true for PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

4. Defendant sentenced to county jail per 1170(h)(1) or (2)
 to prison per 1170(a), 1170.1(a) or 1170(h)(3) due to current or prior serious or violent felony PC 290 or PC 186.11 enhancement
 per PC 667(b)-(i) or PC 1170.12 (strike prior)
 per PC 1170(a)(3). Preconfinement credits equal or exceed time imposed. Defendant ordered to report to local parole or probation office.

5. INCOMPLETE SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: _____

7. Additional indeterminate term (see CR-292).

8. TOTAL TIME: _____

Attachments may be used but must be referred to in this document.

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:			
-A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

a. Restitution Fines:

Case A: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ _____ per PC 1202.45 suspended unless parole is revoked.
\$ _____ per PC 1202.44 is now due, probation having been revoked.

Case B: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ _____ per PC 1202.45 suspended unless parole is revoked.
\$ _____ per PC 1202.44 is now due, probation having been revoked.

Case C: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ _____ per PC 1202.45 suspended unless parole is revoked.
\$ _____ per PC 1202.44 is now due, probation having been revoked.

Case D: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ _____ per PC 1202.45 suspended unless parole is revoked.
\$ _____ per PC 1202.44 is now due, probation having been revoked.

b. Restitution per PC 1202.4(f):

Case A: \$ _____ Amount to be determined to victim(s)* Restitution Fund

Case B: \$ _____ Amount to be determined to victim(s)* Restitution Fund

Case C: \$ _____ Amount to be determined to victim(s)* Restitution Fund

Case D: \$ _____ Amount to be determined to victim(s)* Restitution Fund

*Victim name(s), if known, and amount breakdown in item 13, below. *Victim name(s) in probation officer's report.

c. Fines:

Case A: \$ _____ per PC 1202.5 \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case B: \$ _____ per PC 1202.5 \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case C: \$ _____ per PC 1202.5 \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case D: \$ _____ per PC 1202.5 \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

d. Court Operations Assessment: \$ _____ per PC 1465.8. e. Conviction Assessment: \$ _____ per GC 70373. f. Other: \$ _____ per (specify): _____

10. TESTING: Compliance with PC 296 verified AIDS per PC 1202.1 other (specify): _____

11. REGISTRATION REQUIREMENT: per (specify code section): _____

12. MANDATORY SUPERVISION: Execution of a portion of the defendant's sentence is suspended and deemed a period of mandatory supervision under Penal Code section 1170(h)(5)(B) as follows (specify total sentence, portion suspended, and amount to be served forthwith):

Total: _____ Suspended: _____ Served forthwith: _____

13. Other orders (specify): _____

16. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT		
A			[]	2933	
			[]	2933.1	
			[]	4019	
B			[]	2933	
			[]	2933.1	
			[]	4019	
C			[]	2933	
			[]	2933.1	
			[]	4019	
D			[]	2933	
			[]	2933.1	
			[]	4019	
Date Sentence Pronounced			Time Served in State Institution		
			DMH	CDC	CRC
			[]	[]	[]

14. IMMEDIATE SENTENCING: Probation to prepare and submit a post-sentence report to CDCR per 1203c.

Defendant's race/national origin: _____

15. EXECUTION OF SENTENCING IMPOSED

- a. at initial sentencing hearing
- b. at resentencing per decision on appeal
- c. after revocation of probation
- d. at resentencing per recall of commitment (PC 1172.1)
- e. other (specify): _____

17. The defendant is remanded to the custody of the sheriff forthwith after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to the reception center designated by the director of the California Department of Corrections and Rehabilitation
 county jail other (specify): _____

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
--------------------	------

ABSTRACT OF JUDGMENT—PRISON COMMITMENT—INDETERMINATE
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-292 ATTACHED)

CR-292

SUPERIOR COURT OF CALIFORNIA, COUNTY OF:		DRAFT Not approved by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	DOB: -A	
AKA:	-B	
CII NO.:	-C	
BOOKING NO.:	<input type="checkbox"/> NOT PRESENT	-D
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT	<input type="checkbox"/> AMENDED ABSTRACT	
DATE OF HEARING	DEPT. NO.	JUDGE
CLERK	REPORTER	PROBATION NO. OR PROBATION OFFICER <input type="checkbox"/> IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE	COUNSEL FOR DEFENDANT <input type="checkbox"/> APPTD.	

1. Defendant was convicted of the commission of the following felonies:

Additional counts are listed on attachment _____ (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY			CONCURRENT	CONSECUTIVE	664 STAY
						JURY	COURT	PLEA			
					/ /						
					/ /						
					/ /						
					/ /						
					/ /						
					/ /						

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

COUNT	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL

Defendant was sentenced to State Prison for an INDETERMINATE TERM as follows:

4. LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts _____
5. LIFE WITH THE POSSIBILITY OF PAROLE on counts _____
6. a. 15 years to Life on counts _____ c. _____ years to Life on counts _____
- b. 25 years to Life on counts _____ d. _____ years to Life on counts _____

PLUS enhancement time shown above

7. Additional determinate term (see CR-290).
8. Defendant was sentenced pursuant to PC 667(b)-(i) or PC 1170.12 PC 667.61 PC 667.7 other (specify):

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:			
-A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

a. Restitution Fines:

- Case A: \$_____ per PC 1202.4(b) forthwith per PC 2085.5; \$_____ per PC 1202.45 suspended unless parole is revoked.
\$_____ per PC 1202.44 is now due, probation having been revoked.
- Case B: \$_____ per PC 1202.4(b) forthwith per PC 2085.5; \$_____ per PC 1202.45 suspended unless parole is revoked.
\$_____ per PC 1202.44 is now due, probation having been revoked.
- Case C: \$_____ per PC 1202.4(b) forthwith per PC 2085.5; \$_____ per PC 1202.45 suspended unless parole is revoked.
\$_____ per PC 1202.44 is now due, probation having been revoked.
- Case D: \$_____ per PC 1202.4(b) forthwith per PC 2085.5; \$_____ per PC 1202.45 suspended unless parole is revoked.
\$_____ per PC 1202.44 is now due, probation having been revoked.

b. Restitution per PC 1202.4(f):

- Case A: \$_____ Amount to be determined to victim(s)* Restitution Fund
- Case B: \$_____ Amount to be determined to victim(s)* Restitution Fund
- Case C: \$_____ Amount to be determined to victim(s)* Restitution Fund
- Case D: \$_____ Amount to be determined to victim(s)* Restitution Fund

* Victim name(s), if known, and amount breakdown in item 12, below. * Victim name(s) in probation officer's report.

c. Fines:

- Case A: \$_____ per PC 1202.5 \$_____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$50 Lab Fee per HS 11372.5(a) \$_____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case B: \$_____ per PC 1202.5 \$_____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$50 Lab Fee per HS 11372.5(a) \$_____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case C: \$_____ per PC 1202.5 \$_____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$50 Lab Fee per HS 11372.5(a) \$_____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case D: \$_____ per PC 1202.5 \$_____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$50 Lab Fee per HS 11372.5(a) \$_____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

d. Court Security Fee: \$_____ per PC 1465.8.

e. Criminal Conviction Assessment: \$_____ per GC 70373.

10. TESTING: a. Compliance with PC 296 verified b. AIDS per PC 1202.1 c. other (specify):

11. REGISTRATION REQUIREMENT: per (specify code section): _____

12. Other orders (specify):

13. IMMEDIATE SENTENCING:

Probation to prepare and submit post-sentence report to CDCR per PC 1203c.

Defendant's race/national origin: _____

14. EXECUTION OF SENTENCING IMPOSED

- a. at initial sentencing hearing
- b. at resentencing per decision on appeal
- c. after revocation of probation
- d. at resentencing per recall of commitment (PC 1172.1)
- e. other (specify):

15. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
A			[] 2933
			[] 2933.1
			[] 4019
B			[] 2933
			[] 2933.1
			[] 4019
C			[] 2933
			[] 2933.1
			[] 4019
D			[] 2933
			[] 2933.1
			[] 4019
Date Sentence Pronounced		Time Served in State Institution	
		DMH	CDC
		[]	[]
		[]	[]

16. The defendant is remanded to the custody of the sheriff forthwith after 48 hours excluding Saturdays, Sundays, and holidays.
To be delivered to the reception center designated by the director of the California Department of Corrections and Rehabilitation.
 other (specify):

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
--------------------	------

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee action requested [Choose from drop down menu below]:
Submit to JC (without circulating for comment)

Rules Committee Meeting Date: August 23, 2022

Title of proposal: Rules and Forms: Miscellaneous Technical Changes

Proposed rules, forms, or standards (*include amend/revise/adopt/approve*):
Revise form FL-329

Committee or other entity submitting the proposal:
Judicial Council Staff

Staff contact (name, phone and e-mail): Anne M. Ronan, 415-865-8933, anne.ronan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Approved by Rules Committee date: N/A
Project description from annual agenda: N/A

If requesting July 1 or out of cycle, explain:

This proposal was not circulated for public comment because it is noncontroversial, involve technical revisions, and is therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

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

Information for JC Staff regarding form translations:

- *List any amended forms in this proposal that have already been translated:*
- *List any new forms that require translation by statute or that you will request to be translated:*



JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-147

For business meeting on September 20, 2022

Title

Rules and Forms: Miscellaneous Technical
Changes

Agenda Item Type

Action Required

Effective Date

September 22, 2022

Rules, Forms, Standards, or Statutes Affected

Revise form FL-329

Date of Report

July 25, 2022

Recommended by

Judicial Council staff
Anne M. Ronan, Supervising Attorney
Legal Services

Contact

Anne M. Ronan, 415-865-8933
anne.ronan@jud.ca.gov

Executive Summary

Judicial Council staff have noted a minor error in *Confidential Child Custody Evaluation Report Under Family Code Section 3118* (form FL-329). Judicial Council staff recommend making a correction to that form to remove an extraneous check box and reference to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective September 22, 2022, revise *Confidential Child Custody Evaluation Report Under Family Code Section 3118* (form FL-329) to correct a minor error.

The text of the proposed form is attached at pages 3–10.

Relevant Previous Council Action

Although the Judicial Council has acted on this form, this proposal recommends only a minor correction unrelated to any prior action.

Analysis/Rationale

The change to this form is technical in nature and necessary to remove an extraneous check box and reference to “See Attachment 4” that appears to the right of item 3a.

Policy implications

There are no policy implications to this proposal.

Comments

None.

Alternatives considered

None.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of the form recommended for revision. Because the proposed change is a technical correction, case management systems are unlikely to need updating to implement them.

Attachments and Links

1. Form FL-329, at pages 3–10

EVALUATOR: LICENSE NO. (if applicable): NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">CONFIDENTIAL</p> <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	
CONFIDENTIAL CHILD CUSTODY EVALUATION REPORT UNDER FAMILY CODE SECTION 3118	CASE NUMBER:

NOTICE

**This child custody evaluation report is private and confidential.
It must NOT become part of the public court file.**

- ▶ **At least 10 days before any hearing regarding custody of the child, the evaluator must file the report with the clerk of the court and serve it on the parties or their attorneys and the attorney appointed for the child.**
- ▶ **The report may not be made available to anyone other than the parties or their attorneys, the attorney appointed for the child, and the court.**

TOTAL NUMBER OF PAGES OF THE REPORT (specify): _____
(Include in the total the cover page and all attachments.)
Attachments are confidential and must NOT be filed or served separately from the report.

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1. The *Order Appointing Child Custody Evaluator* (form FL-327) filed on (date) _____ is attached (see Attachment 1).

2. The names and dates of birth of each child are (specify): Additional children are listed on Attachment 2.

Child's name

Date of birth

3. Dependency court orders

- a. There are no dependency court orders that might affect child custody.
- b. There are dependency court orders that might affect child custody, as follows: See Attachment 3b(1).

(1) Court (county, state) Case number Date order filed

(2) Any dependency court orders or findings that might have a bearing on the child custody dispute in family court are summarized (specify): Below: See Attachment 3b(2).

4. Summary of child welfare agency investigations and recommendations

- a. The children listed in item 2 and the children's parents are or have been the subject of a child abuse investigation (specify):
 Yes No (Skip b through f; go to item 5.)
- b. I consulted with the agencies providing child welfare services about the serious allegation of child sexual abuse or the allegation of child abuse, reviewed the child welfare agencies' files, and obtained recommendations from social workers about each child's safety and need for protection. (You must not photocopy any document contained in the child welfare services agency file.)
- c. The status or disposition of the investigation about the safety of each child is (specify): Below: See Attachment 4c.

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d. The contact information for each social worker is (specify): See Attachment 4d.

Name:	Name:
Telephone No.:	Telephone No.:
Mailing Address:	Mailing Address:
City and Zip Code:	City and Zip Code:
Email address:	Email address:

e. A summary of all child welfare agency investigations about the safety of each child (including statements made by each child and the parents, information about child abuse, domestic violence, or substance abuse, and recommendations made or anticipated to be made regarding safety of each child) are (specify): Below: See Attachment 4e.

f. Recommendations made or anticipated to be made by each social worker to the juvenile court about the safety and need for protection of each child are (specify): Not applicable to this case. Below: See Attachment 4f.

5. Summary of law enforcement investigation and recommendations

a. I consulted with law enforcement about the serious allegation of child sexual abuse or the allegation of child abuse and obtained recommendations from these professionals about each child's safety and need for protection.

b. Recommendations from each law enforcement professional about each child's safety and need for protection are summarized (specify): Below: See Attachment 5b.

c. I obtained from a law enforcement investigator all available information obtained from criminal background checks of (specify): the parents any suspected perpetrator that is not a parent including information about child abuse, domestic violence, or substance abuse.

d. A summary of the information obtained from each law enforcement investigator is (specify): Below: See Attachment 5d.

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6. Multidisciplinary and forensic examinations; interview of the child

a. Multidisciplinary interview team (MDIT) interviews

- (1) I reviewed the results of the MDIT interview.
- (2) I requested an MDIT interview because *(select one)*:
 - (a) There was no MDIT interview of the child.
 - (b) I believe that the MDIT interview was inadequate for purposes of this investigation.
- (3) I interviewed each child because *(select one)*:
 - (a) There was no MDIT interview of the child.
 - (b) I believe that the MDIT interview was inadequate for purposes of this investigation.
- (4) Whenever possible, I avoided repeated interviews of the child.
- (5) A summary of the MDIT my interview of each child is: Below: See Attachment 6a(5).

- (6) Written documentation of the MDIT my interview of each child is attached (see Attachment 6a(6)).
- (7) I obtained information about the presence of domestic violence or substance abuse in the family from *(specify)*:
 the MDIT interview my interview with each child. A summary of the information is *(specify)*:
 Below: See Attachment 6a(7).

b. Forensic examination of the child

- (1) I reviewed the forensic medical examinations of each child.
- (2) No forensic medical examination of the child or children was conducted, and *(select (a) or (b))*:
 - (a) I requested a forensic medical examination of each child.
 - (b) I did not request a forensic medication examination. The examination is not needed because *(explain)*:
 Below: See Attachment 6b(2)(b).

- (3) A summary of the forensic medical examination of each child is *(specify)*: Below: See Attachment 6b(3).

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(4) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: See Attachment 6b(4).

(5) A copy of all written forensic medical reports is included with this report. See Attachment 6b(5).

7. Documentation of other material interviews; relevant background material

a. I interviewed the parents.
 (1) A summary of each interview is (*specify*): Below: See Attachment 7a(1).

(2) Written documentation of each interview is attached (see Attachment 7a(2)).

(3) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: see Attachment 7a(3).

b. Prior or currently treating therapists

(1) I interviewed each child's current therapist prior therapist treating for suspected child abuse.
 A summary of each interview (excluding any privileged communication) is Below: See Attachment 7b(1).

(2) I reviewed I obtained written reports from therapists treating each child for suspected child abuse.
 A summary of each report (excluding any privileged communication) is: Below: See Attachment 7b(2).

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- (3) All written reports from the therapists (excluding privileged communication) are attached (see Attachment 7b(3).)
- (4) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary (excluding privileged communication) is (*specify*): Below: See Attachment 7b(4).

c. Medical personnel; other medical examinations

- (1) I interviewed other medical personnel who provided relevant information (*specify in summary*).
- (2) I reviewed I obtained all written results from other medical examinations or treatments that could help establish or disprove whether each child has been the victim of sexual abuse or other child abuse under Family Code section 3118.
- (3) A summary of each interview examination result is: Below: See Attachment 7c(3).

- (4) All written reports from the above medical examinations are attached (see Attachment 7c(4)).
- (5) I obtained information about the presence of domestic violence or substance abuse in the family from this source.
 A summary of the information is (*specify*): Below: See Attachment 7c(5).

d. Other professionals

- (1) I interviewed other professionals who provided relevant information (*specify in summary*).
- (2) I reviewed I obtained all written results from other professionals that could help establish or disprove whether the child has been the victim of sexual abuse or other child abuse under Family Code section 3118.
- (3) A summary of each interview examination result is: Below: See Attachment 7d(3).

- (4) All written reports from other professionals are attached (see Attachment 7d(4)).

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- (5) I obtained information about the presence of domestic violence or substance abuse in the family from these sources.
 A summary of the information is (*specify*): Below: See Attachment 7d(5).

e. Other witnesses

- (1) I interviewed other witnesses who provided relevant information (*specify in summary*).
 (2) A summary of each interview is (*specify*): Below: See Attachment 7e(2).

- (3) Written documentation of each witness interviewed is attached (see Attachment 7e(3)).
 (4) I obtained information about the presence of domestic violence or substance abuse in the family from these sources.
 A summary of the information is (*specify*): Below: See Attachment 7e(4).

8. Victims of Crime Program

List which, if any, family members are known to have been deemed eligible for assistance from the Victims of Crime Program due to child abuse or domestic violence (*specify*): Below: See Attachment 8.

9. Limitations in the evaluation

Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews. Below: See Attachment 9.

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10. **Other**

Additional information that I believe would be helpful to the court in determining the best interests of the child under Family Code section 3011 (*specify*): Below: See Attachment 10.

11. **My recommendations** regarding the therapeutic needs of each child and how to ensure the safety of each child are (*specify*):

Below: See Attachment 11.

12. **Summary of procedures**

I have summarized the data-gathering procedures, information sources, and time spent, and present all relevant information, including information that does not support the conclusions reached. Below: See Attachment 12.

13. Number of pages attached: _____

Date:

(NAME OF EVALUATOR)


SIGNATURE OF EVALUATOR