

Civil and Small Claims Advisory Committee

Annual Agenda—2016

Approved by RUPRO: ____ [date of approval] _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Raymond M. Cadei, Chair Hon. Ann I. Jones, Vice Chair
Staff:	Ms. Anne M. Ronan, Legal Services
<p>Advisory Body’s Charge: Under rule 10.41 of the California Rules of Court, the Civil and Small Claims Advisory Committee (C&SCAC) is charged with making recommendations to the Judicial Council for improving the administration of justice in civil and small claims proceedings.</p> <p>Based on this charge, and pursuant to rule 10.34, the committee on an ongoing basis:</p> <ul style="list-style-type: none">(1) identifies issues and concerns affecting court administration in the areas of civil procedure, practice, court-connected alternative dispute resolution (ADR), and case management and recommends appropriate solutions to the council;(2) proposes to the council changes to rules, standards, and forms for civil cases and development of uniform statewide rules, standards, and forms in civil cases;(3) reviews pending legislation and recommends whether the council should support or oppose it;(4) proposes to the council new legislation in the areas of civil procedure, practice, court-connected alternative dispute resolution (ADR), and case management;(5) reviews suggestions from the public in the areas of civil procedure, practice, court-connected ADR, and case management and recommends appropriate action to the council or one of its committees;(6) recommends to the council pilot projects to evaluate new procedures, practices, or court-connected ADR programs for civil cases;(7) identifies educational needs and recommends educational activities to the Center for Judiciary Education and Research; and(8) makes other appropriate recommendations to the council.	

Advisory Body's Membership: 30 voting members, in following categories:

- appellate court justices - 2
- trial court judicial officers - 15
- judicial administrators - 3
- lawyers whose primary area of practice is civil law - 7
- legal secretary - 0
- person knowledgeable about small claim law and procedures - 2
- person knowledgeable about court-connected ADR programs for civil and small claims matters – 1

advisory member (non-voting) - 1

Subgroups/Working Groups:

Standing Subcommittees

- Alternative Dispute Resolution Subcommittee
- Legislative Subcommittee
- Protective Order Subcommittee
- Small Claims and Limited Cases Subcommittee
- Unlimited Case and Complex Litigation Subcommittee

Ad Hoc Subcommittees

- Ad Hoc Subcommittee on Expedited Jury Trials

Advisory Body's Key Objectives for 2016:

1. *Trial Court Efficiencies.* Consider proposals and, if appropriate, develop and recommend rules of court, best practices, and guidelines to provide greater efficiencies and cost savings in civil and small claims courts.
2. *Improved Procedures.* Develop and recommend statewide best practices, guidelines, rules of court, or new and revised forms to improve procedures in case management, complex litigation, small claims, court-connected ADR programs, and other civil areas.
3. *New Law Implementation.* Develop and recommend new and amended rules of court and forms to implement new legislation relating to civil courts and civil procedures.

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	Review suggestions. Review suggestions from members of the judicial branch and the public for improving civil practice and procedure, court-connected ADR, and case management and review recommend actions by the council or one of its committees.	1	<p>Judicial Council Direction: Mandated by rule 10.21(c); see also Strategic Plan Goal: III, Modernization of management and administration; Operational Plan Objective: 5, Develop and implement effective trial case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of civil cases.</p> <p>Origin of Project: Cal. Rules of Court, Rule 10.21(c)</p> <p>Resources: N/A</p> <p>Key Objective Supported: N/A</p> <p>Rules and Forms Proposals Priority Level: to be determined upon review of proposals.</p>	Ongoing	Uncertain, depends on proposals received.
2.	Consideration of Case Management Rules Current emergency exemption to statewide rules and	2(b)	<p>Judicial Council Direction: Strategic Plan Goal: III, Modernization of management and administration; Operational Plan Objective: 5,</p>	January 2018	Uncertain; potential amendment to rules.

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>procedures (rule 3.720(b)) will sunset at the end of 2019. Prior to that time, the committee will review and evaluate the procedures being employed by those courts currently exempted from the case management rules, along with the benefits and burdens of the current statewide rules, in order to be prepared to make a recommendation as to whether the council should continue to permit exemptions, return to statewide case management rules, amend the current rules, or take other action.</p>		<p>Develop and implement effective trial case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of civil cases. ³</p> <p>Origin of Project: advisory committee</p> <p>Resources: N/A</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none"> 1. Trial Court Efficiencies 2. Improved Procedures 		
3.	<p>Recognition and Entry of Tribal Court Money Judgment. AB 406, Tribal Courts Civil Money Judgments Act, will sunset in December 2017. Advisory Committee will support Tribal Court-State Court Forum, which intends to do study to see what effect, if any, the new law has had on the courts and consider whether the law should be extended or expanded.</p>	2(b)	<p>Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5.</p> <p>Origin of Project: Tribal Court/State Court Forum</p> <p>Resources: Tribal Court-State Court Forum</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none"> 3. New Law Implementation 	December 2017	Uncertain; likely to be recommendations to PCLC

³ Much of the work by the Civil and Small Claims Advisory Committee (C&SCAC) falls within this pair of Strategic Plan Goals/Operational Plan Objectives. This pair of goals is referred to through the rest of this agenda as “Strategic Plan Goal: III. Operational Plan Objective: 5.”

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
4.	<p>Serve as lead/subject matter resource for other advisory groups to avoid duplication of efforts and contribute to development of recommendations for council action.</p> <p>Such efforts may include providing civil and small claims procedural expertise and review to working groups, advisory committees, and subcommittees as needed.</p>		<p>Judicial Council Direction: Pursuant to the committee’s charge under California Rules of Court, rule 10.41 “makes recommendations to the Judicial Council for improving the administration of justice in civil and small claims proceedings.”</p> <p>Origin of Project: Respective advisory bodies</p> <p>Resources: N/A</p> <p>Key Objective Supported: 2 Improved Procedures</p>		

ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE⁴ (Hon. Helen Bendix, Chair; Ms. Heather Anderson, Counsel)					
#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
5.	Collaborations with Justice Partners to Sustain ADR Programs. Gather additional information, including follow up to prior survey about bar associations and other justice partners managing or assisting in managing ADR programs for the courts; consider issues associated with such collaborations, including neutral training and complaint procedures; and consider whether/how to disseminate information, models, or tools to facilitate appropriate collaborations.	2	Judicial Council Direction: Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1g, Increased alternatives to hearings, including such alternative dispute resolution (ADR) options as mediation, arbitration, neutral evaluation, and settlement conferences. ⁵ Origin of Project: Proposal by member of C&SCAC (Judge of the Superior Court of Los Angeles County) Resources: N/A Key Objective Supported: 1. Trial Court Efficiencies 2. Improved Procedures	January 2017	Recommendations regarding sample or model procedures or checklists for establishing collaborations
6.	Publicizing ADR Webpages. Consider options for sharing information about the ADR resources available on the judicial branch websites updated last year.	2	Judicial Council Direction: Strategic Plan Goal IV; Operational Plan Objective 1(g)(ADR). Origin of Project: Proposal by member of C&SCAC (Judge of the Superior Court of Los Angeles County) Resources: N/A Key Objective Supported: 1. Trial Court Efficiencies 2. Improved Procedures	January 2017	Recommendations regarding ways to share these materials

⁴ The remaining proposals are organized by subcommittee.

⁵ This pair of goals is referred to hereafter as Strategic Plan Goal IV; Operational Plan Objective 1(g)(ADR).

ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE⁴

(Hon. Helen Bendix, Chair; Ms. Heather Anderson, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
7.	ADR Training for Court Administrators. Consider working with CJER or other providers on ADR-related training for court administrators	2	Judicial Council Direction: Strategic Plan Goal IV; Operational Plan Objective 1(g)(ADR). Origin of Project: Proposal by member of C&SCAC (Judge of the Superior Court of Los Angeles County) Resources: CJER Key Objective Supported: 1. Trial Court Efficiencies 2. Improved Procedures	January 2017	New or revised training
8.	California Law Revision Commission Mediation Confidentiality Study. Review and consider submitting comments on the CLRC tentative recommendation regarding amendments to the mediation confidentiality statutes	2	Judicial Council Direction: Strategic Plan Goal IV; Operational Plan Objective 1(g)(ADR). Origin of Project: Proposal by member of C&SCAC (Judge of the Superior Court of Los Angeles County) Resources: Governmental Affairs staff assistance in working with CLRC. Key Objective Supported: 1. Trial Court Efficiencies 2. Improved Procedures	January 2017	Comments to the CLRC
9.	Informing Mediation Participants about Confidentiality. Consider	2(b)	Judicial Council Direction: Strategic Plan Goal IV; Operational Plan Objective 1(g)(ADR).	January 2019	Amended rules

ALTERNATIVE DISPUTE RESOLUTION SUBCOMMITTEE⁴

(Hon. Helen Bendix, Chair; Ms. Heather Anderson, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	whether to recommend amendments to the rules establishing the standards of conduct for mediators in court-connected mediation programs for civil cases or the rules regarding mediation program administration to address what further information, if any, must be provided to program participants regarding mediation confidentiality		Origin of Project: Proposal by attorney mediator Resources: N/A Key Objective Supported: 1. Trial Court Efficiencies 2. Improved Procedures		

LEGISLATIVE SUBCOMMITTEE

(Hon Raymond M. Cadei, Chair; Mr. Daniel Pone, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
10	Review of Pending Legislation. Review pending legislation on civil procedure and court administration and make recommendations to the council's Policy Coordination and Liaison Committee.	1	Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: required by Rule 10.34(a)(3) Resources: Governmental Affairs office Key Objective Supported: N/A	Ongoing	Recommendations to PCLC on positions for council to take on legislation.

PROTECTIVE ORDER SUBCOMMITTEE (part of joint Protective Order Working Group) (Hon. Elizabeth Grimes, C&SCAC lead; Mr. Bruce Greenlee, C&SCAC counsel).

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
11.	<p>Forms for Continuing Hearings. Assembly Bill 1081 amends restraining order statutes to eliminate current provisions concerning reissuance of temporary restraining orders and replaces them with new provisions providing procedure for continuing hearings. The changes must be reflected in a series of mandatory civil forms relating to the prevention of Civil Harassment (CH), Elder Abuse (EA), Workplace Violence (WV), and Private Post-secondary School Violence (SV), as well as in forms relating to the prevention of Domestic Violence (DV) and Juvenile injustice (JUV).</p>	1(a)	<p>Judicial Council Direction: Plan Goal: III. Operational Plan Objective: 5.</p> <p>Origin of Project: AB 1081</p> <p>Resources: Family and Juvenile Law Advisory Committee</p> <p>Key Objective Supported: 1. Trial court efficiencies 2. Improved procedures.</p>	July 2016	revised forms
12.	<p>Possession and control of pets. Assembly Bill 494 amends the current civil harassment and elder abuse prevention statutes to permit the court to issue orders regarding pets. Various CH and EA forms will need to be revised to reflect those new</p>	1(a)	<p>Judicial Council Direction: Plan Goal: III. Operational Plan Objective: 5.</p> <p>Origin of Project: AB 494</p> <p>Resources: Family and Juvenile Advisory Committee</p>	July 2016	Revised forms

PROTECTIVE ORDER SUBCOMMITTEE (part of joint Protective Order Working Group) (Hon. Elizabeth Grimes, C&SCAC lead; Mr. Bruce Greenlee, C&SCAC counsel).

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	provisions, along with various DV forms.		Key Objective Supported: 1. Trial court efficiencies 2. Improved procedures.		
13.	<p>Items on protective order forms requiring information about gun ownership. Reconsider the Fifth Amendment implications of form items requiring the respondent to disclose whether or not he or she had complied with firearms surrender requirements in a temporary restraining order. The joint Protective Order Working Group (POWG) had previously considered this issue and concluded that the failure to check a box on the form did not constitute an admission of continued gun ownership.</p> <p>The subcommittee has agreed to reconsider this issue, with the joint POWG, in light of concerns recently raised by a commenter on the new Gun Violence Restraining Order forms.</p>	(2)	<p>Judicial Council Direction: Strategic Goal 1, Access, Fairness, and Diversity; Operational Plan Objective 1: Ensure that all court users . . . are given an opportunity to be heard. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: National Rifle Association</p> <p>Resources: Family and Juvenile Advisory Committee and other members of joint Protective Order Working Group</p> <p>Key Objective Supported: 2. Improved procedures.</p>	January 2017	Potentially revised forms

<i>SMALL CLAIMS AND LIMITED CASE SUBCOMMITTEE</i>					
(Hon. Stanford E. Reichert, Chair; Ms. Anne M. Ronan, Counsel)					
#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
14.	Wage Garnishment forms. Revision of two Earnings Withholding Orders, particularly as to the instructions to employers on how to calculate amounts to be withheld. Senate Bill 501 changes the method of calculating the amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order.	1(a)	Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: Senate Bill 501. Resources: N/A Key Objective Supported: 2. Improved procedures. 3. New law implementation	July 1, 2016	Revised forms
15.	Request to Enter Default (form CIV-100). <ul style="list-style-type: none"> Revise item for declaration of non-military service to correction reflect the law on that point. Consider adding an item to reflect the requirements for default judgments under the Fair Debt Buying Practices Act 	1(a) and (2)(a)	Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: Staff in the Attorney General's Consumer Affairs Division pointed out the issues and proposed revisions.	January 1, 2017	Revised form

SMALL CLAIMS AND LIMITED CASE SUBCOMMITTEE					
(Hon. Stanford E. Reichert, Chair; Ms. Anne M. Ronan, Counsel)					
#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
			Resources: N/A Key Objective Supported: 1. Trial Court Efficiencies 2. Improved procedures. 3. New law implementation		
16.	Information sheets for Small Claims plaintiffs and defendants (forms SC-100 and SC-101) <ul style="list-style-type: none"> • Revise items in information sheets regarding court interpreters, which are currently incorrect under new law; • Consider several other minor changes that have been proposed regarding these two forms over past several years. 	1(a) and 2(b)	Judicial Council Direction: Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: Two judicial officers from Superior Court of Los Angeles County requested the now incorrect statements regarding interpreters be revised. The other proposals come from a variety of judicial officers, court employees, and stakeholders. Resources: N/A Key Objective Supported: 2. Improved procedures. 3. New law implementation	January 1, 2017	Revised forms

SMALL CLAIMS AND LIMITED CASE SUBCOMMITTEE

(Hon. Stanford E. Reichert, Chair; Ms. Anne M. Ronan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
17.	<p>Order of examination of judgment debtor</p> <ul style="list-style-type: none">• Revise form SC-135, <i>Application and Order to Produce Statement of Assets and to Appear for Examination</i> to correct inconsistency in items (one item stating it "may" be served by a registered process server, etc., while the instruction says it "must" be so served). At same time add formation concerning impact of service by law enforcement. Lack of such information leads to small claims judgment creditors making futile requests for bench warrants due to inadequate service, resulting in expense to parties and extra hearings for courts.• Consider revising form EJ-125, the parallel form for other types of civil cases, which also lacks any notice of the consequence if service is not made by a law enforcement officer.	1(e) and (f); and 2(b)	<p>Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: Judicial officer from Superior Court of Santa Clara County.</p> <p>Resources: N/A</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none">1. Trial court efficiencies2. Improved procedures.	January 1, 2017	Revised forms

SMALL CLAIMS AND LIMITED CASE SUBCOMMITTEE

(Hon. Stanford E. Reichert, Chair; Ms. Anne M. Ronan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
18.	<p>Writ of Execution. Consider possible changes to form EJ-130, particularly to amend the following:</p> <ul style="list-style-type: none">• Clarification of identifiers of type of underlying action (civil limited or civil unlimited) mandated by statute;• Clarification of item 24 and/or addition of identifier on form as to whether an underlying real property action is an unlawful detainer and, if so, identifier as to whether on a foreclosed property (to help implement new law)• Correction of item 19(a) re calculation of interest.	2(a) and (b)	<p>Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: (a) proposals from various court clerks; (b) proposals from East Bay Community Law Center and private attorney; and (c) staff suggestions in light of proposal re other changes from private attorney.</p> <p>Resources: N/A</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none">2. Improved procedures.3. New law implementation	January 2017	Revised form.

UNLIMITED CASE AND COMPLEX LITIGATION SUBCOMMITTEE

(Hon. Ann I. Jones, Chair; Susan R. McMullan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
19.	<p>Disability Access Litigations forms. Assembly Bill 1521 amends the law regarding construction-related disability access claims.</p> <ul style="list-style-type: none"> • Two mandatory forms, DAL-005 and DAL-010, are currently inconsistent with the law and must be revised as soon as possible • The law also mandates revision of a current notice form (DAL-001) and development of an answer form. 	1(a) and 1(c)	<p>Judicial Council Direction: Mandated by statute. See also Strategic Plan Goal: III. Operational Plan Objective: 5. And see Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: AB 1521</p> <p>Resources: Governmental Affairs</p> <p>Key Objective Supported: 3. New law implementation</p>	July 2016	Revised forms
20.	<p>Forms to implement new meet-and-confer requirements on demurrers</p> <p>Senate Bill 383 provides that parties must meet-and-confer prior to filing a demurrer. New forms would be helpful both to educate the parties on the requirements and to make it easier for courts to find that the requirement had been met.</p>	2(a)	<p>Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: Advisory committee member.</p> <p>Resources: N/A</p>	January 2017	Forms

UNLIMITED CASE AND COMPLEX LITIGATION SUBCOMMITTEE

(Hon. Ann I. Jones, Chair; Susan R. McMullan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
			Key Objective Supported: 1. Trial court efficiencies. 3. New law implementation		
21.	<p>Rules Modernization Project – Phase 2. Assist Information Technology Advisory Committee (ITAC) in its Rules Modernization Project, a collaborative multi-year effort to comprehensively review and modernize statutes and rules so that they will be consistent with and foster modern e-business practices.</p> <p>Examples of potential areas identified last year as possible Phase 2 topics for action in 2016 include rules and statutes regarding the return of lodged materials, formatting of motion papers and tabbing of exhibits, timing of notice when provided by electronic service.</p>	2(b)	<p><i>From ITAC Annual Agenda:</i> Judicial Council Direction: Strategic Plan Goal: Goal VI – Branchwide Infrastructure for Service Excellence; Operational Plan Objective: Objective 4, Implement new tools to facilitate electronic exchange of court information while balancing privacy and security.</p> <p>Origin of Project: (<i>approved on prior CTAC agenda.</i>) The Judicial Council, based on recommendations from ITAC and other advisory committees, has responded on a case-by-case basis to the need for rule changes to reflect the shift from paper to electronic records and from mail to electronic service and notification; technology and cost considerations both inside and outside of the courts is heightening the need for changes in the law. CTAC is proposing a more systematic approach to address the needed changes.</p>	January 2017	Amended rules and recommendation to PCLC

UNLIMITED CASE AND COMPLEX LITIGATION SUBCOMMITTEE

(Hon. Ann I. Jones, Chair; Susan R. McMullan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
			Resources: ITAC Key Objective Supported: 1. Trial court efficiencies 2. Improved procedures.		
22.	<p>Process for adding costs and fees to judgment (Rule 3.1700)</p> <ul style="list-style-type: none"> • Consider proposal to clarify rule as to procedure for adding an award of attorney’s fees to a judgment • Consider proposal to clarify rule or form as to procedure for requesting expert witness fees when properly sought as costs. 	2(b)	<p>Judicial Council Direction: Strategic Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: first aspect proposed by individual attorney from San Francisco; second aspect proposed by California Conference of Bar Associations.</p> <p>Resources: N/A</p> <p>Key Objective Supported: 1. Trial court efficiencies 2. Improved procedures.</p>	January 2018	Amended rule
23.	<p><i>Deposition Subpoena for Production of Business Records.</i> (form SUBP-010)</p>	2(b)	<p>Judicial Council Direction: Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in</p>	January 2018	Revised form

UNLIMITED CASE AND COMPLEX LITIGATION SUBCOMMITTEE

(Hon. Ann I. Jones, Chair; Susan R. McMullan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
	Revise instructions to deponent to correctly distinguish between what a party whose consumer or employee records are sought must do to stop their production (file a motion to quash and give notice to the subpoenaed custodian of records) and what a non-party whose records are sought must do (serve written objections on party and on subpoenaed witness).		public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: private attorney from San Francisco. Resources: N/A Key Objective Supported: 2. Improved procedures.		
24.	Streamline discovery motions Consider potential methods of making motions to compel and motions for protective orders in discovery more efficient for the court and less burdensome on the parties.	2	Judicial Council Direction: Plan Goal: III. Operational Plan Objective: 5. See also Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Origin of Project: advisory committee Resources: N/A Key Objective Supported: 1. Trial court efficiencies 2. Improved procedures.	January 2018	Revised rules or recommendations to PCLC for legislation to amend statute

UNLIMITED CASE AND COMPLEX LITIGATION SUBCOMMITTEE					
(Hon. Ann I. Jones, Chair; Susan R. McMullan, Counsel)					
#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
25.	<p>Develop form interrogatories for wrongful death cases</p> <p>The current personal injury form interrogatories do not fit wrongful death cases in many respects. Committee wants to begin work on new or supplemental set of interrogatories for use in such cases.</p>	2(b)	<p>Judicial Council Direction: Pursuant to the committee’s charge under rule 10.41 “makes recommendations to the Judicial Council for improving the administration of justice in civil and small claims proceedings.”</p> <p>Origin of Project: advisory committee member</p> <p>Resources: N/A</p> <p>Key Objective Supported: 2. Improved procedures.</p>	January 2019	
26.	<p>Update Deskbook on the Management of Complex Civil Litigation.</p> <p>Implementation project; charge for work was made to C&SCAC by the council at October 22, 1999 meeting in which the council received the report of the Complex Civil Litigation Task Force and voted to adopt the Task Force’s recommendations (see attached; item 3 from the minutes, beginning at page 17).</p>	2	<p>Judicial Council Direction: Council charged advisory committee with updating the Deskbook as needed.</p> <p>Origin of Project: Judicial Council</p> <p>Resources: N/A</p> <p>Key Objective N/A</p>	Ongoing	If made, revisions published and distributed to subscribers by Lexis approximately November 2015.

AD HOC SUBCOMMITTEE ON EXPEDITED JURY TRIALS

(Hon. Mary House, Chair; Anne M. Ronan, Counsel)

#	Project	Priority	Specifications	Completion Date/Status	End Product/ Outcome of Activity
27.	<p>Expedited Jury Trial Rules and Forms.</p> <ul style="list-style-type: none">• Develop new rules and forms and amend current ones to implement AB 555, which provides for mandatory expedited jury trials in most limited cases and amends the provisions for the current voluntary expedited jury trials.• Consider amending current rules for voluntary expedited jury trials in order to simplify them.	2	<p>Judicial Council Direction: Mandated by statute. See also Strategic Plan Goal: III. Operational Plan Objective: 5. And see Strategic Plan Goal: IV, Quality of Justice and Service to the Public; Operational Plan Objective: 1, Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: AB 555</p> <p>Resources: Governmental Affairs</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none">1. Trial court efficiencies2. Improved procedures.3. New law implementation	<p>July 1, 2016 effective date expected for rules and form required to implement AB 555.</p> <p>Additional amendments may be developed over following year, to be completed January 2018, if comments on original proposal indicate a need for them.</p>	New and amended rules and forms.

III. STATUS OF 2014 PROJECTS:

[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1	Review suggestions. Review suggestions from the public for improving civil practice and procedure, court-connected ADR, and case management and recommend action by the council or one of its committees.	Completed for 2015. All proposals received through November 2015 have been initially reviewed and, where appropriate, prioritized. Those assigned priority 1 or 2 are listed as new proposals on this annual agenda Ongoing. See item 1 on 2016 Annual Agenda
2	Collaborations with Justice Partners to Sustain ADR Programs. Consider the issues associated with bar associations and other justice partners managing or assisting in managing ADR programs for the courts, including issues such as neutral training, complaint procedures, and dissemination of information about ADR programs, and whether to propose models or tools to facilitate appropriate collaborations.	Ongoing. In 2015, updated ADR web pages to improve dissemination of information; continuing efforts with follow up to earlier survey about these issues. See item 5 on 2016 Annual Agenda
3	Consider options for disseminating/sharing samples of courts' ADR program rules and forms and information about training resources for neutrals ways to share information about training resources for neutrals	Ongoing. Completed update of ADR web pages to improve dissemination of information; continuing work to publicize the update. See item 6 on 2016 Annual Agenda.
4	Consider working with CJER or other providers on ADR-related training for court administrators	Ongoing. See item 7 on 2016 Annual Agenda.
5	Assess the feasibility of developing a new rule allowing courts to charge a fee to offset court expenses associated with voluntary ADR programs	Dropped following further consideration by the advisory committee.
6	Review of Pending Legislation. Review pending legislation on civil procedure and court administration and make recommendations to the council's Policy Coordination and Liaison Committee.	Completed for 2015. Ongoing for 2016. See item 10 on 2016 Annual Agenda.

7	Request for Interpreter Form. Develop a new form for parties to use to request court interpreters in civil matters.	Referred to newly created Strategic Language Access Plan Implementation Task Force. Advisory committee will provide expertise as requested. See item 4.
8	Writs on Small Claims Matters: Develop procedural rules for writ proceedings relating to actions by small claims division other than post-judgment enforcement orders.	Completed. Rules and forms adopted effective July 1, 2015.
9	Proof of Service—Civil (form POS-040). Amend form to correct the provision regarding electronic service to conform to law; form incorrectly provided that server may not be party to the action, but law expressly permits electronic service to be completed by a party. Other minor amendments to form will be considered at same time.	Completed. Amended form approved effective January 1, 2016.
10	Writ of Execution. Consider possible changes to form EJ-130, particularly to amend the following: <ul style="list-style-type: none"> • Clarification of identifiers of type of underlying action (civil limited or civil unlimited) mandated by statute; • Clarification of item 24 and/or addition of identifier on form as to whether an underlying real property action is an unlawful detainer and, if so, identifier as to whether on a foreclosed property (to help implement new law) • Correction of item 19(a) re calculation of interest. 	Ongoing. This was approved as a two-year project and work will be undertaken in future as other projects are completed. See item 18 on 2016 Annual Agenda.
11	Notice of Application for Recognition and Entry of Tribal Court Money Judgment. Develop new form mandated by AB 406, Tribal Courts Civil Money Judgments Act.	Completed. New form adopted effective July 1, 2015.
12	Confidential Information Form under Civil Code § 1708.85. Develop, as mandated by statute, form for party to use in actions for new civil claims for distribution of sexually explicit materials, to provide true name and redacted identifying characteristics to court confidentially, to keep outside public record.	Completed. New form adopted effective July 1, 2015.
13	Case Management Conferences. Review rules 3.712 and 3.720, which were amended in 2013 to permit courts, by local rule and on a temporary basis, to exempt types or categories of general civil cases from the mandatory case management rules.	Completed. Amended rule adopted effective January 1, 2016.

	The amended rules currently apply only to cases filed before January 1, 2016. Committee to review the impact of the amendment to the rules, report on what courts have exempted cases from CMCs under these rules, and consider whether to recommend that the emergency exemptions from CMCs be extended.	
14	Demurrers: Making Demurrer Process More Efficient. Consider developing statutory amendment and/or rule change with goal of reducing the number of demurrers filed and reducing unnecessary work by courts preparing for hearings made moot by filing of amended complaint immediately before hearing. Amendments being considered include requiring parties to meet and confer before a defendant may file a demurrer, and shortening for filing amended complaint as matter of right.	Superseded by action of Legislature over the past year regarding demurrers. See proposal to develop forms to assist in implementation of new statute at item 20 in 2015 Annual Agenda.
15	E-Service of Motion Papers. Propose amending Code of Civil Procedure § 1005(b) to include deadlines for service of moving papers electronically.	Deferred. PCLC declined to approve recommendation as too minor on its own, and recommended that the advisory committee consider more extensive amendments to statutes regarding service. Committee will consider that issue in the future as time and resources permit. Advisory committee recommends this proposal be included in ITAC Rules Modernization project. See item 21 in 2016 Annual Agenda.
16	Telephonic Appearances. <ul style="list-style-type: none"> Correct inconsistency in newly amended rule 3.670(h)(4) regarding notice of telephonic appearance. Rule currently requires notice to be made by 2:00 p.m. the day before hearing, but then permits written notice to be served by close of business that same day. [Rule is being re-circulated due to comment from original circulation pointing out additional change needed to assure consistency and request from court to amend rule because not all courts open up to 2:00 p.m.] 	Completed. Amended rules and forms adopted effective January 1, 2016

	<ul style="list-style-type: none"> Revise form for Notice of Telephonic Appearances (form CIV-020) to eliminate reference to out-dated requirements regarding notice. 	
17	<p>Summary Judgment Objections. Consider amending rule 3.1350 to reflect Judicial Council sponsored-legislation amending Code of Civil Procedure § 437c to narrow the requirement to rule on evidentiary objections</p>	Completed. Amended rules adopted effective January 1, 2016
18	<p>Format of Discovery Motions. Proposal to amend rule 3.1345 to require a moving party in a motion to compel to provide an electronic copy of the separate statement, upon the request of an opposing party.</p>	<p>Specific item was dropped following further consideration of the committee.</p> <p>See ongoing item for make discovery motions more efficient generally at item 24 of 2016 Annual Agenda.</p>
19	<p>Update Deskbook on the Management of Complex Civil Litigation. Implementation project; charge for this work was made to C&SCAC by the Judicial Council at October 22, 1999 meeting in which the council received the report of the Complex Civil Litigation Task Force and voted to adopt the Task Force’s recommendations (see attached; item 3 from the minutes, beginning at page 17).</p>	<p>Completed for 2015. Revisions for Deskbook approved by advisory committee effective November 2015.</p> <p>Ongoing to determine if revisions needed in 2016 See item 26 on 2016 Annual Agenda.</p>
20	<p>Gun Violence Restraining Orders. Develop forms for new civil restraining order procedure mandated by AB 1014.</p>	<p>Completed the forms; approved by RUPRO and will go to Judicial Council in December 2015, with effective date of in January 2016.</p> <p>Ongoing; consideration of one issue raised during comments period, to be taken to entire joint Protective order Working Group. See item 13 on 2016 Annual Agenda.</p>
21	<p>Rules Modernization. The committee will consult with the Court Technology Advisory Committee on that committee’s project to modernize the Rules of Court. It will assist in reviewing the proposed amendments to rules in titles 1, 2 and 3 of the Rules of Court. The project is listed on CTAC’s annual agenda as follows: Modernize Trial Court Rules to Support E-Business</p>	<p>Phase 1 completed. Amended rules adopted effective January 1, 2016.</p> <p>Phase 2 ongoing. See item 21 in 2016 Annual Agenda.</p>

	<ul style="list-style-type: none">a. Prioritize potential rule and statutory modifications per results of the CTAC Rules & Policy Subcommittee's 2012 study of the paper-to-electronic transition analyzing where outdated policy challenges or prevents e-business (e.g., electronic notification to replace mail, paying fines online, etc.).b. Prepare initial (Phase 1) rule recommendations(s), based on established priorities.	
--	--	--

IV. Subgroups/Working Groups - Detail

Standing Subcommittees

Alternative Dispute Resolution Subcommittee

Purpose of subcommittee or working group: This subcommittee was established to address and consider proposals and issues concerning court-related alternative dispute resolution programs. The subcommittee makes initial recommendation in this area, which it presents to the committee as a whole for consideration and further action. When specifically directed to do so by RUPRO, it also considers proposals related to alternative dispute resolution issues not directly connected to court programs.

Number of advisory group members: 12

Number and description of additional members (not on this advisory group): None

Date formed: Prior to 1999.⁶

Number of meetings or how often the group meets: Anticipate 5 to 6 meetings in the coming year, by conference calls.

Ongoing or date work is expected to be completed: Ongoing

[Discovery Subcommittee (*suspended status*)]

[Purpose of subcommittee or working group: This subcommittee was established with the goal of improving civil discovery, by considering proposals and issues concerning discovery in civil cases. The subcommittee makes initial recommendation in this area, which it presents to the committee as a whole for further action. Due to the fiscal crisis, however, and the council's request that advisory committees limit their work when possible, the committee's activities were suspended in 2013, and will continue to be suspended in 2014. The group may need to be revived in 2015 following the amendment of the federal e-discovery rules, to consider whether state e-discovery rules should be amended in a similar fashion.

Number of advisory group members: 12 members in 2012.

Number and description of additional members (not on this advisory group): None.

Date formed: The subcommittee was formed before 1999. In 2001, it became known as the Discovery and Rules Reform Subcommittee, with the goal of expanding the rule-making authority of the Judicial Council, by obtaining from the Legislature broad authority to develop civil procedures and practices relating to civil discovery, enabling the California court system to exercise rule-making powers comparable to those exercised by the federal court and other court systems. RUPRO reconsidered this project several

⁶ The easily accessible computerized records of the advisory committee begin in 1999. Further research would be needed to determine the actual formation date of the standing subcommittees formed before that date.

years ago, and directed the committee to instead focus on incremental legislative changes where appropriate and not to develop any broad legislative initiatives to expand the council's rule-making authority without further direction.

Number of meetings or how often the group meets: None anticipated this year. Three years ago, 4 meetings were held, by conference calls.

Ongoing or date work is expected to be completed: Ongoing; currently suspended as part of effort to focus staff efforts on fewer committees; expect to reappoint members to this subcommittee in the future.]

Legislative Subcommittee

Purpose of subcommittee or working group: The subcommittee was established to review pending legislation on civil procedure and court administration and make recommendations to the Judicial Council's Policy Coordination and Liaison Committee.

Number of advisory group members: 7

Number and description of additional members (not on this advisory group): None

Date formed: Prior to 1999.

Number of meetings or how often the group meets: Anticipate 6 to 8 meetings this year, by conference calls.

Ongoing or date work is expected to be completed: Ongoing.

Protective Orders Subcommittee (part of the joint Protective Order Working Group)

Purpose of subcommittee or working group: The joint working group was established at the direction of RUPRO to coordinate advisory committees' activities concerning protective orders that restrain domestic violence, civil harassment, elder and dependent abuse, and school place violence. The group assists in ensuring that there is consistency and uniformity, to the extent appropriate, in the different protective orders used in family, juvenile, civil, probate and criminal proceedings. The working group helps advisory committees and the Judicial Council by developing and updating Judicial Council protective order forms. It also reviews pending legislation, suggests new legislation to improve protective orders, and recommends changes to the rules of court on protective orders, as necessary or appropriate. The Protective Order Subcommittee is comprised of those members of C&SCAC who are part of the joint working group. The subcommittee also works independently of the working group at times, when addressing issues that impact civil actions alone which the chairs of the working group have decided need not be addressed jointly. The subcommittee makes initial recommendation in these areas, which it presents to the committee as a whole for further action.

Number of advisory group members: 6

Number and description of additional members (not on this advisory group): The joint Protective Order Working group is now under the leadership of the Family and Juvenile Law Advisory Committee.

Date formed: 2007.

Number of meetings or how often the group meets: Approximately 4-6 meetings annually, depending on extent of business, by conference calls.

Ongoing or date work is expected to be completed: Ongoing.

Small Claims and Limited Cases Subcommittee

Purpose of subcommittee or working group: This subcommittee was established to address and consider proposals and issues concerning small claims matters, limited jurisdiction actions, and fee waivers. The subcommittee also considers Judicial Council forms generally used by self-represented parties, developing new forms and revising current ones. The subcommittee makes initial recommendation in this area, which it presents to the committee as a whole for further action.

Number of advisory group members: 11

Number and description of additional members (not on this advisory group): None

Date formed: Prior to 1999

Number of meetings or how often the group meets: Anticipate 6 to 8 meetings in the coming year, by conference calls.

Ongoing or date work is expected to be completed: Ongoing

Unlimited Case and Complex Litigation Subcommittee

(formerly known as Case Management and Complex Litigation Subcommittee)

Purpose of subcommittee or working group: This subcommittee was established to address and consider proposals and issues concerning the management and trial of unlimited civil cases, including complex litigation matters. The subcommittee also considers new and amended Judicial Council forms generally used by parties represented by counsel, developing new forms and revising current ones. The subcommittee makes initial recommendation in these areas, which it presents to the committee as a whole for further action. This subcommittee also works on updates to the *Deskbook on Management of Complex Litigation*, an implementation project that the Judicial Council charged this advisory committee to work on in 1999.

Number of advisory group members: 13

Number and description of additional members (not on this advisory group): None

Date formed: This subcommittee was formed in November 2008, through the merger of the Case Management Subcommittee and the Complex Litigation Subcommittee. The Complex Litigation Subcommittee was established in 1999 and the Case Management Subcommittee, originally known as the Case Management and Delay Reduction Subcommittee, was established some years before then.

Number of meetings or how often the group meets: Anticipate 6 to 8 meetings in the coming year, by conference calls.

Ongoing or date work is expected to be completed: Ongoing.

Ad Hoc Subcommittees

Ad Hoc Subcommittee on Expedited Jury Trials

Purpose of subcommittee or working group: This ad hoc subcommittee was established to address issues and develop rules and forms to implement the new legislation (AB 555) concerning expedited jury trials.

Number of advisory group members: 14

Number and description of additional members (not on this advisory group): 1; chair, Judge Mary Thornton House, Superior Court of Los Angeles, who chaired the original working group that developed rules and forms for expedited jury trials.

Date formed: This subcommittee was formed in November 2015, following enactment of AB 555 in October 2015.

Number of meetings or how often the group meets: Anticipate 6 to 8 meetings in the coming year, by conference calls.

Ongoing or date work is expected to be completed: First set of rules and forms are expected to be completed by July 1, 2015, as mandated by statute. Additional work may be needed in the following year, depending on comments received on the initial proposal.

Council action:

The Judicial Council, effective January 1, 2000, adopted new Form TR-100, *Notice of Correction and Proof of Service*, for mandatory use to correct clerical errors on *Notices to Appear*.

Item 2 Adoption of Long-Range Plan for Judicial Branch Education

The Center for Judicial Education and Research (CJER) Governing Committee recommended adopting its long-range plan for developing educational programs, publications, and other services. Under rule 6.50, the rule of court governing the committee, CJER is required to present such a plan based on its assessment of the needs of judicial officers and court staff.

Council action:

The Judicial Council adopted the long-range plan for judicial branch education as presented.

The motion passed.

Item 3 Final Report of the Complex Civil Litigation Task Force: (a) *Deskbook on the Management of Complex Civil Litigation*; (b) *Complex Civil Case Management Judicial Education Curriculum*; (c) *Complex Civil Case Rules and Civil Case Cover Sheet*; (d) *Electronic Filing Rule*; (e) *Conforming Amendments to Statutes, California Rules of Court, and Standards of Judicial Administration*; and (f) *Recommendation on Appropriate Judicial Council Oversight Committee (adopt rules 1800, 1810, 1811, 1812, and 1830; amend rules 212, 982.2, 1501.1, 2101, and 2105 of the California Rules of Court; amend § 19, California Standards of Jud. Admin.; and revise Form 982.2(b)(1)*

Justice Richard D. Aldrich, Chair of the Complex Civil Litigation Task Force, presented the report, assisted by Professor Clark Kelso, task force reporter, and Ms. Cara Vonk, task force counsel. Justice Aldrich stated that a Business Court Task Force was appointed in 1996 to study the merits of implementing a special trial court for business and commercial disputes. That task force ultimately recommended against establishing a special business court and instead proposed that a task force study establishing a complex civil litigation specialization in courts.

Justice Aldrich noted that the Complex Civil Litigation Task Force was appointed and charged with developing recommendations for a deskbook, education, legislation, rules of court, a pilot program, and an oversight committee on complex civil litigation.

Professor Kelso reviewed the task force's recommendations for changes to rules of court. He stated that the overall goals of the proposed amendments were early judicial involvement, active judicial management, and identification of complex cases. Professor Kelso highlighted several of the recommendations, including a new rule that would define a complex case and rule changes that prescribe assigning a complex case to one judge for all purposes, provide guidelines for electronic filings for complex cases, and require early case management conferences.

Ms. Vonk reported that funding for proposed pilot programs was allocated from the Judicial Administration Efficiency and Modernization Fund. She noted that a report would be drafted in the next few months summarizing the effectiveness of the pilot programs and outlining training needs for judges and staff.

Justice Aldrich reported that the task force report was circulated widely for comment. The response was generally positive. He noted that the work of the task force and, in particular, the deskbook will be shared at a national conference and serve as a model for other states.

Council action:

Judge Paul Boland moved that the Judicial Council:

1. Receive the *Deskbook on the Management of Complex Civil Litigation*, which will be published by the Administrative Office of the Courts and distributed to all judges in the state;
2. Receive the specialized judicial education curriculum, *Complex Civil Case Management*, with suggested policies for faculty, attendees, and course prerequisites developed by the Complex Civil Litigation Task Force that will be forwarded to the Center for Judicial Education and Research (CJER) Governing Committee;
3. Refer to the Center for Judicial Education and Research (CJER) Governing Committee the task force recommendation that sections 25.2 and 25.3 of the Standards of Judicial Administration be amended to add a "complex civil cases" educational curriculum for judicial officers assigned to hear complex cases;
4. Amend rule 212 of the California Rules of Court, effective January 1, 2000, to conform the 30-day meet-and-confer requirement to the order of the court in a complex case;
5. Amend rule 982.2 and revise the *Civil Case Cover Sheet* (Form 982.2(b)(1)), effective January 1, 2000, to implement rules 1810 through 1812 providing for an early provisional complex case designation, counterdesignation or joinder, and decision by the court whether the action is a complex case;
6. Adopt rules 1800 through 1812 of the California Rules of Court, effective January 1, 2000, to define, provisionally designate, and decide whether an action is a complex case requiring "exceptional judicial management to avoid placing unnecessary

- burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel”;
7. Adopt rule 1830 of the California Rules of Court, effective January 1, 2000, to provide that documents filed electronically in a central depository and available to all parties are deemed served on all parties if ordered by the court in a complex civil case management order;
 8. Amend rules 1501.1, 2102, and 2105 of the California Rules of Court, effective January 1, 2000, to make technical and conforming amendments to the coordination and differential case management rules;
 9. Amend section 19 of the Standards of Judicial Administration, effective January 1, 2000, to delete the complex “hearing” and “definition” provisions that are superseded by rules 1800 and 1812, amend the “selection of judges for complex litigation assignments” to provide that the presiding judge in selecting judges for complex litigation assignments should consider “the needs of the court, the judge’s ability, interest, training, experience (including experience with complex civil cases), and willingness to participate in educational programs related to the management of complex cases,” and to make other conforming amendments;
 10. Seek conforming legislation to delete references in Code of Civil Procedure sections 403 and 404 to section 19 of the Standards of Judicial Administration on complex coordinated cases to read “complex as defined by the Judicial Council”;
 11. Charge the Civil and Small Claims Advisory Committee with ongoing responsibility for:
 - a. Recommending to the Judicial Council improvements to complex civil litigation programs in California, based on an ongoing review of the programs’ effectiveness and best practices, including the complex litigation pilot programs beginning in January 2000,
 - b. Updating the *Deskbook on the Management of Complex Civil Litigation*,
 - c. Making recommendations to the council on ways to improve efficient and fair practices for coordinating complex civil cases pending in different counties, including possible review of petitions for coordination by a panel of judges and transfer of cases to counties with complex civil litigation centers, and
 - d. Recruiting experienced complex civil litigation members to take the place of outgoing members for nomination and consideration for appointment by the Chief Justice; and
 12. Request that the Administrative Director of the Courts report on the new complex litigation pilot programs as required by Government Code section 68617, including an evaluation of the program’s practices, and to submit the report to the Civil and Small Claims Advisory Committee for review and comment.

The motion passed.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Civil Procedure: Revision of Wage Garnishment Form Instructions

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Anne M Ronan, 415-865-8933

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

Approved by RUPRO: October 22, 2015

Project description from annual agenda:

SB 501 (enacted 10/11/15) This bill, effective July 1, 2016, changes the method of calculating the amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order. The change must be reflected in the instructions to employers on the back of the two Judicial Council wage garnishment order forms.

If requesting July 1 or out of cycle, explain:

Mandated by statute enacted October 2015 that new procedures and forms be operative by July 2016

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

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT Winter15-__

Title	Action Requested
Civil Practice and Procedure: Revision of Wage Garnishment Form Instructions	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms WG-002 and WG-030	July 1, 2016
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Raymond Cadei, Chair	Anne Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

Senate Bill 501 (Wieckowski, 2015) (SB 501) amends the method of computing the amount of a judgment debtor's earnings that may be garnished under an earnings withholding order, effective July 1, 2016. Two mandatory Judicial Council forms, *Earnings Withholding Order (Wage Garnishment)* (form WG-002) and *Earnings Withholding Order for Elder or Dependent Adult Financial Abuse* (form WG-030), include instructions to employers describing the maximum amounts that may be garnished, which must be revised to reflect the new law.

The Proposal

Statute limits the amount of earnings of a judgment debtor that may be subject to an earnings withholding order. (See Code Civ. Proc., § 706.050.¹) Currently, law prohibits the amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order from exceeding the lesser of (1) 25% of the individual's weekly disposable earnings or (2) the amount by which the individual's disposable earnings for the week exceed 40 times the state minimum hourly wage in effect at the time the earnings are payable, unless an exception applies.

SB 501 will, commencing July 1, 2016, change the second aspect of calculating the maximum amount to be withheld in two ways. The new law reduces the prohibited amount of an individual judgment debtor's weekly disposable earnings subject to levy under an earnings withholding order from exceeding the lesser of (1) 25% of the individual's weekly disposable earnings (this part stays the same as in current law) or (2) **50%** of the amount by which the individual's

¹ All statutory references hereafter are to the Code of Civil Procedure unless otherwise indicated.

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

disposable earnings for the week exceed 40 times the state minimum hourly wage, *or applicable local minimum hourly wage*, if higher, in effect at the time the earnings are payable (the 2016 amendment shown in italics).

This proposal revises the second pages of each form (WG-002 and WG-030), which provide almost identical instructions to employers regarding their duties upon receipt of the order—including the duty to withhold the correct amount of earnings, and instructions on how to calculate that amount. Section 706.127 mandates that the council prepare these instructions and revise them as needed to reflect any changes in the applicable law. The current forms, in addition to explaining how to calculate disposable earnings, contain a chart that shows how much to withhold based on the amount of such earnings and the pay period, based on the state minimum wage. The revised forms will not contain that chart.

Because the amended law provides for employers to calculate the amount to withhold using the local minimum wage if that is higher than the state minimum wage, it is no longer possible to have a single chart of amounts to withhold that is applicable to all employers. In place of the chart, the proposed forms contain the text of the statute that explains how the maximum amount is to be calculated. There is also a reference to the judicial branch website. The advisory committee is proposing that the Judicial Council add information to the Self-Help pages of that website to help an employer calculate the maximum amount to withhold from an employee's pay. This would include a table showing the maximum withholding amount when the state minimum wage is the applicable amount to use, and instructions on how to calculate the maximum withholding amount when it is a local minimum hourly wage that is to be used in the calculation. The committee recommends the inclusion of an online calculator on the website, if feasible.

Alternatives Considered

The proposed form revisions are required to make the mandatory forms consistent with law as of July 1, 2016. Hence the only alternative that the committee considered was not whether to revise the form, but how. The group considered providing multiple charts on the form, using additional pages, so employers would not have to look elsewhere for information to more easily calculate the appropriate withholding amount. However that was deemed impractical in light of the increasing number of municipalities with minimum wage amounts higher than the state minimum wage, the fact that those amounts differ from each other, and the differing schedules for changing them (some are currently set to change each January, some each July, and at least one in October). Trying to ensure that all the charts were kept up-to-date as various municipal minimum wage amounts are changed would be very difficult and result in a continuous stream of changed forms as often as twice each year.

The committee concluded that providing the information on the website would be more practical. It also concluded that developing an electronic calculator, although it would involve more initial expense than a form revision, might be more efficient in the long run.

Implementation Requirements, Costs, and Operational Impacts

This form is generally prepared by parties or levying officers, so implementation of this proposal should not have any cost burden or operational impact on the courts.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments and Links

1. Forms WG-002 and WG-030 are attached at pages 4–7.
2. Senate Bill 501 may be seen at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB501

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>):		LEVYING OFFICER (<i>Name and address</i>):	
TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>Name</i>): _____		DRAFT 12/02/15	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____		NOT APPROVED BY JUDICIAL COUNCIL	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____			
EARNINGS WITHHOLDING ORDER (Wage Garnishment)		LEVYING OFFICER FILE NO.:	COURT CASE NO.:
EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.			

EMPLOYER: Enter the following date to assist your recordkeeping.
Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):

TO THE EMPLOYER REGARDING YOUR EMPLOYEE:

Name and address of employer

Name and address of employee

Social Security No. on form WG-035 unknown

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (*see instructions on reverse of this form*). Pay the withheld sums to the **levying officer** (*name and address above*).

If the employee works for you now, you must **give the employee a copy of this order and the *Employee Instructions (form WG-003)*** within 10 days after receiving this order.

Complete both copies of the form *Employer's Return (form WG-005)* and mail them to the levying officer within 15 days after receiving this order, whether or not the employee works for you.

2. The total amount due is: \$

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the 10th day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that 10th day.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.

3. The judgment was entered in the court on (*date*):

The judgment creditor (*if different from the plaintiff*) is (*name*):

4. The **INSTRUCTIONS TO EMPLOYER** on the reverse tell you how much of the employee's earnings to withhold each payday and answer other questions you may have.

Date:

_____ (TYPE OR PRINT NAME)

_____ (SIGNATURE)
 LEVYING OFFICER REGISTERED PROCESS SERVER

(Employer's Instructions on reverse)

INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-002

The instructions in paragraph 1 on the reverse of this form describe your early duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the *withholding period*.

The withholding period is the period covered by the *Earnings Withholding Order* (this order). The withholding period begins ten (10) calendar days after you receive the order and continues until the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice), is withheld.

It may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *EMPLOYER'S RETURN*) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

The *Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review that form (*Employer's Return*) for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each *check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.*

WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The law is described in the column to the right on this sheet. You may also look on the Judicial Branch Self-Help website, for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, with different minimum wage amounts. The information is at www.courts.ca.gov/self-help-xxxxxx.htm.

THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), compute the employee's *disposable earnings*.

(A) Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings since they are not paid by the employer.

(B) *Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(C) After the employee's *disposable earnings* are known, you can apply the formulas set out in the statute (see below) to determine what amount should be withheld, or you can seek assistance on the Self-Help website at www.courts.ca.gov/self-help-xxxx.htm. Note that you also need to know the amount of the minimum wage in the geographic location where the employee works.

Code Civ. Proc. 706.050. Maximum Amount of Disposable Earnings.

(a) Except as otherwise provided in this chapter, the maximum amount of disposable earnings of an individual judgment debtor [the employee] for any workweek that is subject to levy under an earnings withholding order shall not exceed the lesser of the following:

(1) Twenty-five percent of the individual's disposable earnings for that week.

(2) Fifty percent of the amount by which the individual's disposable earnings for that week exceed 40 times the state minimum hourly wage in effect at the time the earnings are payable. If a judgment debtor works in a location where the local minimum hourly wage is greater than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable shall be used for the calculation made pursuant to this paragraph.

(b) For any pay period other than weekly, the following multipliers shall be used to determine the maximum amount of disposable earnings subject to levy under an earnings withholding order that is proportional in effect to the calculation described in paragraph (2) of subdivision (a), except as specified in paragraph (1):

(1) For a daily pay period, the amounts shall be identical to the amounts described in subdivision (a).

(2) For a biweekly pay period, multiply the state hourly minimum wage by 80 work hours.

(3) For a semimonthly pay period, multiply the state hourly minimum wage by 86 2/3 work hours.

(4) For a monthly pay period, multiply the state hourly minimum wage by 173 1/3 work hours.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (Name): _____	LEVYING OFFICER (Name and address): <p style="text-align: center;">DRAFT 12/03/15</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	LEVYING OFFICER FILE NUMBER:
EARNINGS WITHHOLDING ORDER FOR ELDER OR DEPENDENT ADULT FINANCIAL ABUSE (Wage Garnishment)	

EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.

EMPLOYER: Enter the following date to assist your record keeping.
 Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):

TO THE EMPLOYER REGARDING YOUR EMPLOYEE:

Name and address of employer <input style="width: 100%; height: 40px;" type="text"/> <input style="width: 100%; height: 40px;" type="text"/>	Name and address of employee <input style="width: 100%; height: 40px;" type="text"/> <input style="width: 100%; height: 40px;" type="text"/>
Social Security No. <input type="checkbox"/> on form WG-035 <input type="checkbox"/> unknown	

- A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (see instructions on reverse of this form).
 Pay the withheld sums to the **levying officer** (name and address above). If the employee works for you now, you must **give the employee a copy of this order and the Employee Instructions (form WG-003)** within 10 days after receiving this order.
Complete both copies of the Employer's Return (form WG-005) and mail them to the levying officer within 15 days after receiving this order, whether or not the employee works for you.
- The total amount due is: \$
 - The amount arising from an elder or dependent financial abuse claim is: \$

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the tenth day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that tenth day.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.
- The judgment was entered in the court on (date):
 The judgment creditor (if different from the plaintiff) is (name):
- The EMPLOYER'S INSTRUCTIONS on the reverse tell you how much of the employee's earnings to withhold each payday. Follow those instructions unless you receive a court order or order from the levying officer giving you other instructions.

Date: _____

(TYPE OR PRINT NAME) (SIGNATURE)

LEVYING OFFICER REGISTERED PROCESS SERVER

(Employer's Instructions on reverse)

EARNINGS WITHHOLDING ORDER
FOR ELDER OR DEPENDENT ADULT FINANCIAL ABUSE
(Wage Garnishment)

INSTRUCTIONS TO EMPLOYER ON EARNINGS WITHHOLDING ORDERS

WG-030

The instructions in paragraph 1 on the reverse of this form describe your early duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the *withholding period*.

The withholding period is the period covered by the *Earnings Withholding Order* (this order). The withholding period begins ten (10) calendar days after you receive the order and continues until the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice), is withheld.

It may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *EMPLOYER'S RETURN*) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

The *Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review that form (*Employer's Return*) for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each check with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, 706.050, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

COMPUTATION INSTRUCTIONS

California law provides how much earnings to withhold, if any, for different amounts of disposable earnings and different pay periods, and takes into consideration different minimum wage amounts. The law is described in the column to the right on this sheet. You may also look on the Judicial Branch Self-Help website, for assistance in determining the maximum withholding amounts for different amounts of disposable income, for different pay periods, with different minimum wage amounts. The information is at www.courts.ca.gov/self-help-xxxxxx.htm.

THESE COMPUTATION INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.

State law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), compute the employee's *disposable earnings*.

(A) Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings since they are not paid by the employer.

(B) *Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

(C) After the employee's *disposable earnings* are known, you can apply the formulas set out in the statute (see below) to determine what amount should be withheld, or you can seek assistance on the Self-Help website at www.courts.ca.gov/self-help-xxxx.htm. Note that you also need to know the amount of the minimum wage in the location where the employee works.

Code Civ. Proc. 706.050. Maximum Amount of Disposable Earnings.

(a) Except as otherwise provided in this chapter, the maximum amount of disposable earnings of an individual judgment debtor [the employee] for any workweek that is subject to levy under an earnings withholding order shall not exceed the lesser of the following:

(1) Twenty-five percent of the individual's disposable earnings for that week.

(2) Fifty percent of the amount by which the individual's disposable earnings for that week exceed 40 times the state minimum hourly wage in effect at the time the earnings are payable. If a judgment debtor works in a location where the local minimum hourly wage is greater than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable shall be used for the calculation made pursuant to this paragraph.

(b) For any pay period other than weekly, the following multipliers shall be used to determine the maximum amount of disposable earnings subject to levy under an earnings withholding order that is proportional in effect to the calculation described in paragraph (2) of subdivision (a), except as specified in paragraph (1):

(1) For a daily pay period, the amounts shall be identical to the amounts described in subdivision (a).

(2) For a biweekly pay period, multiply the state hourly minimum wage by 80 work hours.

(3) For a semimonthly pay period, multiply the state hourly minimum wage by 86 2/3 work hours.

(4) For a monthly pay period, multiply the state hourly minimum wage by 173 1/3 work hours.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

IMPORTANT WARNINGS

1. IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
2. IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
3. IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Civil Procedure: Expedited Jury Trials

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): Anne M. Ronan, 415-865-8933

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

Approved by RUPRO: October 22, 2015

Project description from annual agenda:

AB 555 enacted 09/28/15 The bill has extended and amended certain parts of the current voluntary expedited jury trial statute in the Code of Civil Procedure, and provided the following:
630.11. The Judicial Council shall, on or before July 1, 2016, update rules and forms to establish uniform procedures implementing the provisions of this chapter, including, but not limited to, rules for all of the following:

- (a) Additional content of proposed consent orders.
- (b) Pretrial exchanges and submissions.
- (c) Pretrial conferences.
- (d) Presentation of evidence and testimony.
- (e) Any other procedures necessary to implement the provisions of this chapter.

In addition, the bill made expedited jury trials mandatory in many civil limited cases, and further provided:

630.28. The Judicial Council shall, on or before July 1, 2016, adopt rules and forms to establish uniform procedures implementing the provisions of this chapter, including, rules for the following:

- (a) Pretrial exchanges and submissions.
- (b) Pretrial conferences.
- (c) Opt-out procedures pursuant to subdivision (b) of Section 630.20.
- (d) Presentation of evidence and testimony.
- (e) Any other procedures necessary to implement the provisions of this chapter.

If requesting July 1 or out of cycle, explain:

Mandated by statute enacted September 2015 that new procedures and forms be operative by July 2016

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Civil Procedure: Expedited Jury Trials	Review and submit comments by January 22, 2017
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt new rule 3.1546, amend rules 3.1545, and 3.1547–3.1552, and renumber rule 3.1553; adopt new forms EJT-003 and EJT-004; approve new forms EJT-005, and EJT-018; revise and renumber forms EJT-001-INFO and EJT-022A; and revise form EJT-020.	July 1, 2016
	Contact
	Anne M. Ronan, Senior Attorney 415-865-8933, anne.ronan@jud.ca.gov
Proposed by	
Civil and Small Claims Advisory Committee Hon. Raymond M. Cadei, Chair	

Executive Summary and Origin

Assembly Bill 555 (Alejo; Stats. 2015, ch. 330) lifts the sunset provisions in the Expedited Jury Trial Act, which went into effect on January 1, 2011, to establish an expedited jury trial process—a consensual process designed to promote the speedy and economic resolution of cases and to conserve judicial resources. The bill also amends the time frame applicable to such trials from three hours per side to five hours per side, and significantly expands the statute to require expedited jury trials in most limited civil actions other than unlawful detainers. This proposal amends and revises the rules and forms applicable to the current voluntary expedited jury trials to reflect the amendments to the time frame, and includes new rules and forms for the mandatory expedited jury trials in limited civil cases. The statute mandates that the new and amended rules and forms be operative by July 1, 2016.

Background

The original expedited jury trial (EJT) process was developed to address litigants' lack of access to the courts in smaller civil cases and the high expense of going to trial under existing civil laws and procedures. It is a consensual process, intended to be quicker and less expensive than a traditional jury trial, saving time and money for all involved: litigants, lawyers, courts, and jurors. The original EJT differs from a regular jury trial in the following key ways:

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

- *Shorter trial length.* Each side had three hours to put on all its witnesses, show the jury its evidence, and argue its case.
- *Smaller jury.* The jury consists of 8 jurors instead of 12, with no alternates.
- *Faster jury selection process.* The parties exercise fewer peremptory challenges (three per side); and voir dire is limited to 15 minutes per side (plus 15 minutes for the judge).
- *Swifter finality.* All parties had to waive their rights to appeal. In order to help keep down the costs of litigation, there are no appeals following an expedited jury trial except in very limited circumstances.

In order to assure that the parties would be ready to proceed swiftly on the day of trial, the rules provide for pretrial exchanges of exhibits and witnesses and early filing of motions in limine. The EJT process was set up to be very flexible, allowing the parties to enter into agreements governing the rules of procedure for the trial and pretrial exchanges, including the manner and method of presenting evidence and high/low agreements on damages. The scheduling of expedited jury trials and the assignment of judicial officers is left to each superior court. As enacted in 2010, the law included a sunset date of December 31, 2015.

Assembly Bill 555 (AB 555)¹ addresses two concerns that were seen as hampering wider use of the EJT process: the extremely short time frame allotted for trial (three hours per side) and the lack of appeal rights. The Legislature ultimately concluded that the current consensual or voluntary EJT procedures should continue, with a longer, five-hour time period for each side at trial (folding jury voir dire into that time). Code Civ. Proc., § 630.03(e)(2).² The Legislature also concluded that EJTs should be *required* in most smaller civil cases, although with appeal rights, and so included provisions for mandatory EJTs in most limited civil cases. § 630.20. Parties may opt out of the mandatory EJTs if a limited civil case meets certain criteria. *Id.* AB 555 directs the Judicial Council to develop procedures for opting out, along with other rules and forms appropriate for mandatory EJTs. § 630.28.

The Proposal

New and Amended Rules

The proposal amends the current rules of court on EJTs, beginning at rule 3.1545, to provide for both mandatory EJTs and voluntary EJTs.

Mandatory EJT rule. New rule 3.1546 applies only to mandatory EJTs. It provides that the parties in those cases should follow the pretrial procedures (including the limitations on discovery) and case management procedures that apply to limited civil cases generally. Rule 3.1546(a), (b).

¹ AB 555 may be viewed at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB555 .

² All statutory references herein are to the Code of Civil Procedure, unless otherwise noted. All rules references are the California Rules of Court.

The new rule also sets out the procedure for opting out of a mandatory EJT:

- The newly developed mandatory form (proposed form EJT-003) must be used to make the request.
- For cases filed after July 1, 2016, unless good cause is shown, the request must be served and filed by at least 45 days before the date first set for trial.³
- For cases already on file at the time the rule (and the new law) becomes operative, and so potentially closer to or past the date first set for trial, parties must file any opt out request at least 10 days before trial.
- Any objection to the request must be served and filed within 15 days after service of the request, using a mandatory form. (See proposed form EJT-004.)

Rule 3.1546(c): The rules do not anticipate that a hearing must be held on these requests to opt out, because in most the party will have the right to opt out under section 630.20(b) and the request will be routinely granted by the court on the paper filed. Should the court decide a hearing is necessary, the proposed optional order form allows the courts to set one. See proposed form EJT-005.

Rule 3.1546(d) notes that the parties may agree to modify the pretrial and trial procedures (see § 630.23(d) expressly allowing this), and identifies proposed new form EJT-018 and its attachment form as a means to formalize any such agreement.

Voluntary EJT rules. Minor amendments are proposed to current rules 3.1547 and 3.1548, as described below:⁴

- First, the titles of both rules and pertinent subparts are changed to clarify they apply only to voluntary EJTs.
- Second, rule 3.1547(b)(1) has been amended to clarify that the requirements of, as well as timelines for, the pretrial submissions may be modified by agreement of the parties. (A similar change has been made to the attachment to the consent order (form EJT-022A.)
- Third, rule 3.1547(b)(4) was amended to change the three-hour time frame for each side's case to a five-hour time frame.
- Finally, an additional item was added to the list of subjects to be considered at the pretrial conference—the issue of how the award of attorney's fees and costs is to be handled in cases with high/low agreements.

³ That date parallels the earliest date on which a party in a limited civil case may ask the other side for a pretrial statement identifying planned trial witnesses and exhibits. See § 96.

⁴ As noted in the discussion of Alternatives Considered, below, the advisory committee is contemplating further amendments to these provisions in the future.

Rules applicable to all EJTs. The time limits regarding voir dire (in rule 3.1550) were eliminated and the time frame in rule 3.1551 was amended to reflect the change in the statute. Former rule 3.1546 was moved to this new article and renumbered as rule 3.1553. The remaining trial rules otherwise remain the same, amended only to clarify that they are applicable to both types of EJTs.

New and Amended Forms

New forms are proposed for the opt-out procedure and potential agreements of the parties in mandatory EJTs. The current EJT forms are being amended to reflect the increased trial time and to make some of them usable in mandatory EJT cases as well as in voluntary EJT cases.

EJT-001-INFO, Expedited Jury Trial Information Sheet. The information sheet is renumbered (it had been EJT-010-INFO), so that it will remain the first form in this form series, and has been revised in order to cover both types of expedited jury trials.

EJT-003, Request to Opt Out of Mandatory Expedited Jury Trial. This new form is the mandatory form to be used for a request to opt out. There are check boxes for each of the criteria for opting out in § 630.20(b), and a space to set out good cause. There is also an item to address any good cause for late filing. The form must be completed under penalty of perjury. The back of the form has instructions for requesting an opt-out and for objecting to such a request.

EJT-004, Objection to Request to Opt Out of Mandatory Expedited Jury Trial

This new form is a very simple mandatory form that provides spaces to identify the applicant and date of request; identify the ground given and explain why not applicable; and/or explain why the request was not timely. This form, too, must be completed under penalty of perjury

EJT-005, Order on Request to Opt Out of Mandatory Expedited Jury Trial

This is a new optional order form for a court to use in acting on the request, to grant, deny, or set a hearing.

EJT-018, Agreement of Parties (Mandatory Expedited Jury Trial Procedures)

This is a new form intended to permit the parties to memorialize any agreements they reach to modify procedures or streamline the trial, including limiting number of witnesses, etc. This form may be used on its own or as a cover sheet for the attachment form that lists the several areas that had been previously determined to be ripe for modification in EJTs. (See form EJT-022A, previously form EJT-020A.)

EJT-020, Proposed Consent Order. This form has been amended to clarify that it is for use in voluntary EJTs only, and the references to trial time limits and to various forms have been changed.

EJT-022A Attachment. This form, previously numbered EJT-020A as the attachment to the proposed consent order, has been revised so that it can also be used by parties in mandatory EJTs as well.

Alternatives Considered

Because the Legislature mandated new rules and procedures be developed to reflect the changes to the voluntary EJT provisions and the enactment of the new mandatory EJT provisions, the committee did not consider whether to develop new rules and forms, but merely how to do so.

Pretrial Procedures for Mandatory EJTs

The committee considered making the current rules regarding mandatory pretrial conferences and pretrial submissions for voluntary EJTs (see rule 3.1548) applicable to mandatory EJTs as well. The committee decided, however, that those rules—particularly the pretrial conference mandated 15 days before the trial—would be overly burdensome if required in all limited civil cases, and declined to do so. The committee decided instead that mandatory EJT cases should comply with the existing statutory pretrial provisions for limited civil cases, which provide for limited discovery in such cases and the potential of a pretrial exchange of witness and exhibit lists. See §§ 90–100.

In developing procedures for parties to opt out of mandatory EJTs under section 630.20, the committee considered different time frames for opting out. The proposal provides that, in cases filed on or after July 1, 2016, the request may be made up to 45 days before the date first set for trial, the same time at which the parties may ask for a pretrial exchange of witness and exhibit lists (§ 96). The advisory committee considered an earlier deadline for opting out, 60 or 90 days after the first responsive pleading was filed. Many of the criteria set out in section 630.20(b) as grounds for opting out can be identified at the time the complaint or responsive pleading has been filed. With an earlier date, the parties would know from early in the case whether they were likely to be engaging in an EJT. The committee noted, however, that some of the criteria could change over the course of a case. Moreover, pretrial procedures in these limited civil actions will remain the same under the proposed rules whether or not the eventual trial is an EJT, governed by sections 90–100. The only impacts of the decision of opting out of the mandatory EJT procedures will be that the non-EJT case will use more jurors and will take somewhat longer than the two to three days an EJT will take. In light of these considerations, the committee concluded there was not good reason to limit a party’s ability to opt out to early in the case.

In considering the opt-out procedures, the committee also considered whether it should develop a rule to clarify that, after a party has opted out of the mandatory EJT procedures based on a case meeting one or more of the conditions in section 630.20(b), a court may return the case to mandatory EJT status should the relevant conditions no longer apply. The committee asks for

comments on whether such a rule should be developed to clarify that a case can be returned to mandatory EJT status when appropriate, even after an opt-out has been approved by the court.

Procedures for Mandatory EJTs

The committee considered amending the current pretrial rule for voluntary EJTs (rule 3.1548) in light of concerns raised that the early deadlines for pretrial exchanges and the mandatory pretrial conferences were burdensome, particularly in smaller cases, and discouraged parties from agreeing to EJTs. Some members noted that the current rules were often not complied with because many voluntary EJTs were agreed to just before trial, after the time in the rule for exchanges and submissions had already passed. The committee decided to defer proposing any amendments to that provision at this time, focusing instead on the new mandatory EJTs. However, the committee seeks comments on whether such changes are called for and, if so, what changes might make the rules more effective in furthering speedy short trials in cases other than those covered by the mandatory EJT rules. The committee may consider making future recommendations to amend this rule in light of comments received.

Implementation Requirements, Costs, and Operational Impacts

The statutory changes in AB 555 will require significant education of judicial officers and courtroom personnel in any event, regarding the mandatory EJTs that will be held in many limited civil cases starting in July 2016, as well as the criteria for parties to be able to opt out of that type of trial. The new rules and forms relating to requests to opt out are intended to simplify the process, but they will also result in further training needs for court personnel and judicial officers. Those courts that decide to add the optional order form to their computerized case management system will have the added cost of doing that, but it is recommended as an optional form so that courts can make the decision.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should there be a rule to clarify that courts may require that a limited civil case be tried as an EJT even after an opt-out has been granted on a ground provided in Code of Civil Procedure section 630.20(b), if that ground is no longer applicable at the time of trial?
- Are the current pretrial rules for voluntary expedited jury trials in rule 3.1548 overly burdensome? Should the time frames be changed? Should other aspects of the rule be changed?

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

- Would the proposal (the rules and forms) provide cost savings? If so please quantify.
- What would the implementation requirements (for the rules and forms) be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 3.1545–3.1553
2. Forms EJT-001-INFO, EJT-003, EJT-004, EJT-005, EJT-018, EJT-020, EJT-022A
3. Assembly Bill 555 may be viewed at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB555

Rules 3.1545 and 3.1547–3.1552 of the California Rules of Court would be amended, rule 3.1546 would be adopted, and rule 3.1553 would be renumbered, effective July 1, 2016, to read:

1 **Division 15. Trial**

2
3 **Chapter 4.5. Expedited Jury Trials**

4
5 Article 1. Applicability

6
7 **Rule 3.1545. Expedited jury trials**

8
9 **(a) Application**

10
11 The rules in this chapter apply to civil actions in which the parties either

12
13 (1) Agree to an a voluntary expedited jury trial under chapter 4.5 (commencing with
14 section 630.01) of title 8 of part 2 of the Code of Civil Procedure, or

15
16 (2) Are required to take part in an expedited jury trial under chapter 4.6 (commencing with
17 section 630.20) of title 8 of part 2 of the Code of Civil Procedure.

18
19 **(b) Definitions**

20
21 As used in this chapter unless the context or subject matter otherwise requires:

22
23 (1) “Consent order” means the consent order granting an expedited jury trial described in
24 Code of Civil Procedure section 630.03.

25
26 (2) “Expedited jury trial” is a short jury trial before a reduced jury panel, and may be either
27 a “mandatory expedited jury trial” or a “voluntary expedited jury trial”.

28
29 (3) “Mandatory expedited jury trial” has the same meaning as stated in Code of Civil
30 Procedure 630.21.

31
32 (4) “Voluntary expedited jury trial” has the same meaning as stated for “expedited jury
33 trial” in Code of Civil Procedure section 630.01.

34
35 (5) “~~Expedited jury trial~~” “High/low agreement” and “posttrial motions” have the same
36 meanings as stated in Code of Civil Procedure section 630.01.

37
38 **(c) Other programs**

39
40 This chapter does not limit the adoption or use of other expedited trial or alternative
41 dispute resolution programs or procedures.

1
2 Article 2. Rules Applicable Only to Cases with Mandatory Expedited Jury Trials
3

4 **Rule 3.1546. Pretrial procedures for mandatory expedited jury trials**
5

6 **(a) Pretrial procedures**
7

8 The pretrial procedures for limited civil actions set out in the Code of Civil Procedure,
9 sections 90–100 are applicable to all cases with mandatory expedited jury trials. The
10 statutory procedures include limited discovery, optional case questionnaires, optional
11 requests for pretrial statements identifying trial witnesses and exhibits, and the possibility
12 of presenting testimony in the form of affidavits or declarations.
13

14 **(b) Case management**
15

16 The case management rules in chapter 3 of division 7 of these rules, starting at rule 3.720
17 are applicable to all cases with mandatory expedited jury trials, except to the extent the
18 rules have been modified by local court rules applicable to limited civil cases.
19

20 **(c) Opting out of mandatory expedited jury trial procedures**
21

- 22 (1) Parties seeking to opt out of mandatory expedited jury trial procedures on grounds
23 stated in Code of Civil Procedure section 630.20(b) must file a *Request to Opt Out of*
24 *Mandatory Expedited Jury Trial Procedures*, form EJT-003.
25
26 (2) In cases filed on or after July 1, 2016, except on a showing of good cause, the request
27 must be served and filed at least 45 days before the date first set for trial. In cases filed
28 before July 1, 2016, except on a showing of good cause, the request must be served and
29 filed at least 10 days before trial.
30
31 (3) Any objection to the request must be served and filed within 15 days after date of
32 service of the request, on form *Opposition to Request to Opt Out of Mandatory*
33 *Expedited Jury Trial Procedures*, form EJT-004.
34

35 **(d) Agreements regarding pretrial and trial procedures**
36

37 Parties are encouraged to agree to procedures or limitations on pretrial procedures and on
38 presentation of information at trial that could streamline the case, including but not limited
39 to those items described below in rule 3.1547(b). The parties may use *Agreement of*
40 *Parties (Mandatory Expedited Jury Trial Procedures)* (form EJT-018) and the attachment
41 (form EJT-022A) to describe such agreements.
42
43

1 Article 3. Rules Applicable Only to Cases with Voluntary Expedited Jury Trials

2
3 **Rule 3.1547. Consent order for voluntary expedited jury trial**

4
5 **(a) Submitting proposed consent order to the court**

- 6 (1) Unless the court otherwise allows, to be eligible to participate in ~~an~~ a voluntary
7 expedited jury trial, the parties must submit to the court, no later than 30 days before
8 any assigned trial date, a proposed consent order granting an expedited jury trial.
9
10 (2) The parties may enter into written stipulations regarding any high/low agreements or
11 other matters. Only in the following circumstances may a high/low agreement be
12 submitted to the court with the proposed consent order or disclosed later in the
13 action:
14
15 (A) Upon agreement of the parties;
16
17 (B) In any case involving either
18
19 (i) A self-represented litigant, or
20
21 (ii) A minor, an incompetent person, or a person for whom a conservator has
22 been appointed; or
23
24 (C) If necessary for entry or enforcement of the judgment.

25
26 **(b) Optional content of proposed consent order**

27
28 In addition to complying with the provisions of Code of Civil Procedure section 630.03(e),
29 the proposed consent order may include other agreements of the parties, including the
30 following:

- 31
32 (1) Modifications of the requirements or timelines for pretrial submissions required by
33 rule 3.1548;
34
35 (2) Limitations on the number of witnesses per party, including expert witnesses;
36
37 (3) Modification of statutory or rule provisions regarding exchange of expert witness
38 information and presentation of testimony by such witnesses;
39
40 (4) Allocation of the time periods stated in rule 3.1550 including how arguments and
41 cross-examination may be used by each party in the ~~three~~ five-hour time frame;
42
43 (5) Any evidentiary matters agreed to by the parties, including any stipulations or
44 admissions regarding factual matters;
45

- 1 (6) Any agreements about what constitutes necessary or relevant evidence for a
2 particular factual determination;
- 3
- 4 (7) Agreements about admissibility of particular exhibits or demonstrative evidence that
5 are presented without the legally required authentication or foundation;
- 6
- 7 (8) Agreements about admissibility of video or written depositions and declarations;
- 8
- 9 (9) Agreements about any other evidentiary issues or the application of any of the rules
10 of evidence;
- 11
- 12 (10) Agreements to use photographs, diagrams, slides, electronic presentations, overhead
13 projections, notebooks of exhibits, or other methods for presenting information to the
14 jury;
- 15
- 16 (11) Agreements concerning the time frame for filing and serving motions in limine; and
- 17
- 18 (12) Agreements concerning numbers of jurors required for jury verdicts in cases with
19 fewer than eight jurors.
- 20

21 **Rule 3.1548. Pretrial submissions for voluntary expedited jury trials**

22
23 **(a) Service**

24
25 Service under this rule must be by a means consistent with Code of Civil Procedure
26 sections 1010.6, 1011, 1012, and 1013 or rule 2.251 and be reasonably calculated to assure
27 delivery to the other party or parties no later than the close of business on the last
28 allowable day for service as specified below.

29
30 **(b) Pretrial exchange for voluntary expedited jury trials**

31
32 Unless otherwise agreed by the parties, no later than 25 days before trial, each party must
33 serve on all other parties the following:

- 34
- 35 (1) Copies of any documentary evidence that the party intends to introduce at trial
36 (except for documentary evidence to be used solely for impeachment or rebuttal),
37 including, but not limited to, medical bills, medical records, and lost income records;
- 38
- 39 (2) A list of all witnesses whom the party intends to call at trial, except for witnesses to
40 be used solely for impeachment or rebuttal, and designation of whether the testimony
41 will be in person, by video, or by deposition transcript;
- 42
- 43 (3) A list of depositions that the party intends to use at trial, except for depositions to be
44 used solely for impeachment or rebuttal;
- 45

- 1 (4) A copy of any audiotapes, videotapes, digital video discs (DVDs), compact discs
2 (CDs), or other similar recorded materials that the party intends to use at trial for
3 evidentiary purposes, except recorded materials to be used solely for impeachment or
4 rebuttal and recorded material intended to be used solely in closing argument;
5
6 (5) A copy of any proposed jury questionnaires (parties are encouraged to agree in
7 advance on a questionnaire);
8
9 (6) A list of proposed approved introductory instructions, preinstructions, and
10 instructions to be read by the judge to the jury;
11
12 (7) A copy of any proposed special jury instructions in the form and format described in
13 rule 2.1055;
14
15 (8) Any proposed verdict forms;
16
17 (9) A special glossary, if the case involves technical or unusual vocabulary; and
18
19 (10) Motions in limine.
20

21 **(c) Supplemental exchange for voluntary expedited jury trials**

22
23 No later than 20 days before trial, a party may serve on any other party any additional
24 documentary evidence and a list of any additional witnesses whom the party intends to use
25 at trial in light of the exchange of information under subdivision (b).
26

27 **(d) Submissions to court for voluntary expedited jury trials**

28
29 No later than 20 days before trial, each party must file all motions in limine and must lodge
30 with the court any items served under (b)(2)–(9) and (c).
31

32 **(e) Preclusionary effect**

33
34 Unless good cause is shown for any omission, failure to serve documentary evidence as
35 required under this rule will be grounds for preclusion of the evidence at the time of trial.
36

37 **(f) Pretrial conference for voluntary expedited jury trials**

38
39 No later than 15 days before trial, unless that period is modified by the consent order, the
40 judicial officer assigned to the case must conduct a pretrial conference, at which time
41 objections to any documentary evidence previously submitted will be ruled on. If there are
42 no objections at that time, counsel must stipulate in writing to the admissibility of the
43 evidence. Matters to be addressed at the pretrial conference, in addition to the evidentiary
44 objections, include the following:
45

- 1 (1) Any evidentiary matters agreed to by the parties, including any stipulations or
2 admissions regarding factual matters;
3
4 (2) Any agreement of the parties regarding limitations on necessary or relevant
5 evidence, including any limitations on expert witness testimony;
6
7 (3) Any agreements of the parties to use photographs, diagrams, slides, electronic
8 presentations, overhead projections, notebooks of exhibits, or other methods of
9 presenting information to the jury;
10
11 (4) Admissibility of any exhibits or demonstrative evidence without legally required
12 authentication or foundation;
13
14 (5) Admissibility of video or written depositions and declarations and objections to any
15 portions of them;
16
17 (6) Objections to and admissibility of any recorded materials that a party has designated
18 for use at trial;
19
20 (7) Jury questionnaires;
21
22 (8) Jury instructions;
23
24 (9) Special verdict forms;
25
26 (10) Allocation of time for each party's case; ~~and~~
27
28 (11) Motions in limine filed before the pretrial conference; and
29
30 (12) The parties' intention on how any high/low agreement will affect an award of fees
31 and costs.
32

33 **(g) Expert witness documents**
34

35 Any documents produced at the deposition of an expert witness are deemed to have been
36 timely exchanged for the purpose of (c) above.
37

38 Article 3. Rules Applicable to All Expedited Jury Trials
39

40 **Rule 3.1549 Voir dire**
41

42 ~~Approximately one hour will be devoted to voir dire, with 15 minutes allotted to the judicial~~
43 ~~officer and 15 minutes to each side.~~ Parties are encouraged to submit a joint form questionnaire
44 to be used with prospective jurors to help expedite the voir dire process.
45

1 **Rule 3.1550. Time limits**

2
3 ~~Excluding~~ Including jury selection-~~voir dire~~, each side will be allowed ~~three~~ five hours to present
4 its case, including opening statements and closing arguments, unless the court, upon a finding of
5 good cause, allows additional time. The amount of time allotted for each side includes the time
6 that the side spends on cross-examination. The parties are encouraged to streamline the trial
7 process by limiting the number of live witnesses. The goal is to complete an expedited jury trial
8 within ~~one full~~ two trial days.
9

10 **Rule 3.1551. Case presentation**

11
12 **(a) Methods of presentation**

13
14 Upon agreement of the parties and with the approval of the judicial officer, the parties may
15 present summaries and may use photographs, diagrams, slides, electronic presentations,
16 overhead projections, individual notebooks of exhibits for submission to the jurors, or
17 other innovative methods of presentation approved at the pretrial conference.
18

19 **(b) Exchange of items**

20
21 Anything to be submitted to the jury under (a) as part of the evidentiary presentation of the
22 case in chief must be exchanged 20 days in advance of the trial, unless that period is
23 modified by the consent order or agreement of the parties. This rule does not apply to items
24 to be used solely for closing argument.
25

26 **(c) Stipulations regarding facts**

27
28 The parties should stipulate to factual and evidentiary matters to the greatest extent
29 possible.
30

31 **Rule 3.1552. Presentation of evidence**

32
33 **(a) Stipulations regarding rules of evidence**

34
35 The parties may offer such evidence as is relevant and material to the dispute. An
36 agreement to modify the rules of evidence for the trial made pursuant to the expedited jury
37 trial statutes commencing with Code of Civil Procedure section 630.01 may be included in
38 the consent order or agreement of the parties. To the extent feasible, the parties should
39 stipulate to modes and methods of presentation that will expedite the process, either in the
40 consent order or at the pretrial conference.
41

42 **(b) Objections**

43
44 Objections to evidence and motions to exclude evidence must be submitted in a timely
45 manner. Except as provided in rule 3.1548(f), failure to raise an objection before trial does
46 not preclude making an objection or motion to exclude at trial.

1
2
3
4
5
6
7
8
9
10

Rule 3.15461553 Assignment of judicial officers

The presiding judge is responsible for the assignment of a judicial officer to conduct an expedited jury trial. The presiding judge may assign a temporary judge appointed by the court under rules 2.810–2.819 to conduct an expedited jury trial. A temporary judge requested by the parties under rules 2.830–2.835, whether or not privately compensated, may not be appointed to conduct ~~an~~ a voluntary expedited jury trial.

Civil Procedure §§ 90–100.

- The voluntary expedited jury trial rules set up some special procedures to help those cases have shorter and less expensive trials. For example, the rules require that several weeks before the trial takes place, the parties show each other all exhibits and tell each other what witnesses will be at the trial. In addition, the judge will meet with the attorneys before the trial to work out some things in advance.

The other big difference is that the parties in either kind of expedited jury trial can make agreements about how the case will be tried so that it can be tried quickly and effectively. These agreements may include what rules will apply to the case, how many witnesses can testify for each side, what kind of evidence may be used, and what facts the parties already agree to and so do not need to take to the jury. The parties can agree to modify many of the rules that apply to trials generally or to any pretrial aspect of the expedited jury trials.

8 Do I have to have an expedited jury trial if my case is for \$25,000 or less?

Not always. There are some exceptions.

- The mandatory expedited jury trial procedures do not apply to any unlawful detainer or eviction case.
- Any party may ask to opt out of the procedures if the case meets the criteria set out in Code of Civil Procedure section 630.20(b), all of which are also described in item 2 of the *Request to Opt Out of Mandatory Expedited Jury Trial*, form EJT-003. Any request to opt out must be made on that form, and it must be made within a certain time period, as set out in Cal. Rules of Court, rule 3.1546(c). Any opposition must be filed within 15 days after the request has been served.

The remainder of this information sheet applies only to voluntary expedited jury trials.

9 Who can take part in a voluntary expedited jury trial?

The process can be used in any civil case that the parties agree may be tried in one or two days. To have a voluntary expedited jury trial, both sides must want one. Each side must agree to all the rules described in 1, and to waive most appeal rights. The agreements between the parties must be put into writing in a

document called a *[Proposed] Consent Order for a Voluntary Expedited Jury Trial*, which will be submitted to the court for approval. (Form EJT-020 may be used for this.) The court must issue the consent order as proposed by the parties unless the court finds good cause why the action should not proceed through the expedited jury trial process.

10 Why do I give up most of my rights to an appeal in a voluntary expedited jury trial?

To keep costs down and provide a faster end to the case, all parties who agree to take part in a voluntary expedited jury trial must agree to waive the right to appeal the jury verdict or decisions by the judicial officer concerning the trial unless one of the following happens:

- Misconduct of the judicial officer that materially affected substantial rights of a party;
- Misconduct of the jury; or
- Corruption or fraud or some other bad act that prevented a fair trial.

In addition, parties may not ask the judge to set the jury verdict aside, except on those same grounds. Neither you nor the other side will be able to ask for a new trial on the grounds that the jury verdict was too high or too low, that legal mistakes were made before or during the trial, or that new evidence was found later.

11 Can I change my mind after agreeing to a voluntary expedited jury trial?

No, unless the other side or the court agrees. Once you and the other side have agreed to take part in a voluntary expedited jury trial, that agreement is binding on both sides. It can be changed only if **both** sides want to change it or stop the process or if a court decides there are good reasons the voluntary expedited jury trial should not be used in the case. This is why it is important to talk to your attorney **before** agreeing to a voluntary expedited jury trial. This information sheet does not cover everything you may need to know about voluntary expedited jury trials. It only gives you an overview of the process and how it may affect your rights. **You should discuss all the points covered here and any questions you have about expedited jury trials with an attorney before agreeing to a voluntary expedited jury trial.**

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY TRIAL PROCEDURES	CASE NUMBER:

See instructions on back.

1. (Name of party): _____ requests to opt out of the mandatory expedited jury trial procedures in this case because it meets one of the criteria set forth Code of Civil Procedure section 630.20(b).
2. The ground for asking to opt out is (check one or more of the following grounds from Code of Civil Procedure section 630.20(b)):
- a. Punitive damages are sought in the case. (§ 630.20(b)(1).)
 - b. Damages in excess of insurance policy limits are sought in the case. (§ 630.20(b)(2).)
 - c. A party's insurer is providing a legal defense subject to a reservation of rights. (§ 630.20(b)(3).)
 - d. The case involves a claim reportable to a governmental entity. (§ 630.20(b)(4).)
 - e. The case involves a claim of moral turpitude that may affect an individual's professional license. (§ 630.20(b)(5).)
(Identify the individual and the license):
 - f. The case involves claims of intentional conduct. (§ 630.20(b)(6).)
 - g. The case has been reclassified as unlimited pursuant to Code of Civil Procedure section 403.020. (§ 630.20(b)(7).)
 - h. The complaint contains a demand for attorney's fees other than fees sought under Civil Code section 1717. (§ 630.20(b)(8).) (A complaint seeking attorney's fees provided for in a contract is not exempt.)
 - i. Other good cause for not proceeding as an expedited jury trial (§ 630.20(b)(9)) (specify):
3. If the request is not made within the time frame required under Cal. Rules of Court, rule 3.1546, describe the good cause for late filing:

Check here if you need more space to describe the good cause for the request, or for delay, and attach a separate page or pages describing it. At the top of each page, write "EJT-003, item 2i" or "EJT-003, item 3," as applicable.

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 ATTORNEY OR PARTY WITHOUT ATTORNEY)

Page 1 of 2

—INSTRUCTIONS—

1. This form is to be used by any party in a limited civil action seeking to opt out of the mandatory expedited jury trial procedures set out in Code of Civil Procedure sections 630.20–630.29. Those procedures are also described in the *Expedited Jury Trial Information Sheet*, form EJT-001-INFO.
2. The law provides that mandatory expedited jury trial procedures apply to all limited civil cases (except for unlawful detainer or eviction cases), unless the case meets one of the criteria set out in Code of Civil Procedure section 630.20(b). Those are listed on the front of this form, at items 2a–2i. If a case fits into one of those criteria, either party may ask to opt out of the mandatory expedited jury trial procedures.
3. **If you want to opt out:** If you believe the case meets one of the criteria listed in item 2 and you want to opt out of the expedited jury trial procedures, fill out this form, serve a copy on all other parties in the case, and file the original with the court along with a proof of service (you can use form POS-040 for this). The form should be served and filed at least 45 days before the date first set for trial. If you have good cause for filing it later, explain that in item 3.
4. **If you received a copy of this form:** If you disagree that the the case meets any of the criteria listed in item 2, you can object. To do that, fill out the *Objection to Request to Opt Out of Mandatory Expedited Jury Trial Procedures*, form EJT-004, serve a copy on all other parties in the case, and file the original with the court along with a proof of service (you can use form POS-040 for this). *You must file the opposition within 15 days of the date the request was served on you.*
5. **Court action:** After the court has reviewed the request and any objection that has been filed within 15 days, the court will issue an order that will do one of the following:
 - a. grant the request,
 - b. deny the request, or
 - c. set a hearing to hear further from the parties.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
OBJECTION TO REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY TRIAL PROCEDURES	CASE NUMBER:

1. (Name of party): _____ objects to the request to opt out of mandatory expedited jury trial procedures.

3. The request to opt out was filed by (name of applicant): _____ and was served on (date): _____

3. The case does not meet the criteria that the applicant has identified in the *Request to Opt Out* (identify each ground that was checked in item 2 of the Request, and explain why it does not apply to this case):

4. The request to opt out is not timely under Cal. Rules of Court, rule 3.1546, and there is no good cause for a late request. (Explain below.)

Check here if you need more space and attach a separate page or pages. At the top of each page, write "EJT-004, item 3" or "EJT-004, item 4" as applicable.

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 ATTORNEY OR PARTY WITHOUT ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____ OTHER: _____	
ORDER ON REQUEST TO OPT OUT OF MANDATORY EXPEDITED JURY PROCEDURES	CASE NUMBER: _____

The court has reviewed the request to opt out, along with any objection thereto, and makes the following orders:

1. The court **grants** the request. The case will *not* proceed under the mandatory expedited jury procedures.
2. The court **denies** the request to opt out for the following reason(s):
3. The court needs more information to decide whether to grant the request. A hearing is set on the date below:

Name and address of court if different from above:

Hearing Date	→
-------------------------	---

Date: _____ Time: _____
 Dept.: _____ Room: _____

Date: _____

 JUDICIAL OFFICER

Clerk's Certificate of Service

I certify that I am not a party to this action and (check one):

- A certificate of mailing is attached.
- I handed a copy of this order to the applicant listed above, at the court, on the date below.
- This order was mailed first class, postage paid, to the applicant at the address listed above, from (city): _____, California on the date below.

Date: _____

By: _____
 DEPUTY CLERK

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<i>FOR COURT USE ONLY</i> DRAFT 12/01/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER:	
AGREEMENT OF PARTIES (MANDATORY EXPEDITED JURY TRIAL PROCEDURES)	CASE NUMBER:

Under Code of Civil Procedure section 630.23(d), parties are encouraged to agree to modifications or limitations on pretrial procedures and presentation of information at trial that could streamline the case, including but not limited to those items described in form EJT-022A. This form along with form EJT-022A may be used to record any such agreements.

EACH PARTY AGREES AS FOLLOWS:

1. The parties to the action are:
 - a. Plaintiff (name):
 - b. Defendant (name):
 - c. Other party (name and party):
2. The parties have agreed: as described in attached form EJT-022A. as described below.

Date: _____
 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▲ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

Date: _____
 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▲ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

Date: _____
 (TYPE OR PRINT NAME AND TITLE, IF ANY)

▲ _____
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

- It is so **ORDERED**.
- The proposed consent order is **DENIED** for good cause.

Date: _____

 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT 12/01/15</p> <p style="text-align: center;">NOT APPROVED BY JUDICIAL COUNCIL</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
[PROPOSED] CONSENT ORDER FOR VOLUNTARY EXPEDITED JURY TRIAL	CASE NUMBER:
This form is to be signed by all parties and their attorneys of record consenting to a voluntary expedited jury trial under California Code of Civil Procedure sections 630.01–630.12 and rules 3.1545–3.1553 of the California Rules of Court. Before completing this form, all parties should review <i>Expedited Jury Trial Information Sheet</i> (form EJT-001-INFO).	

EACH PARTY AGREES AS FOLLOWS:

1. The parties to the action, each of whom has the authority to consent to an expedited jury trial (EJT), are:
 - a. Plaintiff (name):
 - b. Defendant (name):
 - c. Other party (name and party):
2.
 - a. Plaintiff is represented by an attorney who has advised plaintiff about the EJT procedures and provided plaintiff with an *Expedited Jury Trial Information Sheet* (form EJT-001-INFO).
 - b. Defendant is represented by an attorney who has advised defendant about the EJT procedures and provided defendant with an *Expedited Jury Trial Information Sheet* (form EJT-001-INFO).
 - c. I (name): am representing myself and understand the voluntary expedited jury trial procedures as set forth in Code of Civil Procedure sections 630.01–630.12 and rules 3.1545–3.1553 of the California Rules of Court.
 - d. Insurance carriers responsible for providing coverage or defense for the following parties have been informed of the EJT procedures and provided with an *Expedited Jury Trial Information Sheet* (form EJT-010) and do not object to the procedures:
 - (1) Insurance carrier (name of carrier):
for (name of party):
 - (2) Insurance carrier (name of carrier):
for (name of party):
 - (3) Additional insurance carriers and parties are listed on attached form MC-025.
3. A party to this action is is not a minor, an incompetent person, or a person for whom a conservator has been appointed.
4. Each party understands and agrees to the voluntary expedited jury trial procedures, as follows:
 - a. That all parties **waive all rights to appeal**, to move for directed verdict, or to make any posttrial motions, except as provided in Code of Civil Procedure sections 630.08 and 630.09;
 - b. That each side will have up to **five hours** in which to **complete jury voir dire and** present its case;
 - c. That the jury will be composed of **eight or fewer jurors** with no alternates;
 - d. That each side will be **limited to three peremptory challenges**, unless the court permits an additional challenge in cases with more than two sides as provided in Code of Civil Procedure section 630.04; and
 - e. That the trial and pretrial matters will proceed under a–d above and, unless the parties expressly agree otherwise in this agreement or the attachment to it, under all other provisions for voluntary expedited jury trials (Code Civ. Proc., § 630.01 et seq.) and the rules of court for voluntary expedited jury trials (Cal. Rules of Court, rules 3.1545–3.1553).

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
--	--------------

5. Each party understands that only three-quarters of the jury need to agree in order to reach a decision, unless otherwise agreed by the parties.
6. Each party understands that the parties may make additional agreements concerning the trial in terms of applicable rules, number of witnesses, types of evidence, or other matters in order to shorten the length of time in which the matter will be tried to the jury. Any such agreements are described in item 9 below or in *Attachment to [Proposed] Consent Order for Voluntary Expedited Jury Trial* (form EJT-022A).
7. Each party understands that the parties may enter a confidential high-low agreement specifying a minimum amount of damages that a plaintiff is guaranteed to receive from defendant and a maximum amount that defendant will be liable for, regardless of the verdict returned by the jury.
8. Each party understands that any award of attorney's fees and costs will be decided by the court.
9. Other agreements are described in attached form EJT-022A. are as follows:

10. Total number of pages attached: _____ . The consents below apply to all the agreements described in those pages.

After reading the above and any attachments, I hereby consent to the voluntary expedited jury trial procedures for this case as stated in these documents.

PARTIES

Date: _____ (TYPE OR PRINT NAME AND TITLE, IF ANY)	▶ _____ (SIGNATURE OF PLAINTIFF)
Date: _____ (TYPE OR PRINT NAME AND TITLE, IF ANY)	▶ _____ (SIGNATURE OF DEFENDANT)
Date: _____ (TYPE OR PRINT NAME AND TITLE, IF ANY)	▶ _____ (SIGNATURE OF <i>(describe party)</i>):

ATTORNEYS

Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR PLAINTIFF)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR DEFENDANT)
Date: _____ (TYPE OR PRINT NAME)	▶ _____ (SIGNATURE OF ATTORNEY FOR <i>(describe party)</i>):

- It is so **ORDERED**.
- The proposed consent order is **DENIED** for good cause.

Date: _____

JUDICIAL OFFICER

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
--	--------------

ATTACHMENT TO
 [PROPOSED] CONSENT ORDER FOR VOLUNTARY EXPEDITED JURY TRIAL
 AGREEMENT OF PARTIES (MANDATORY EXPEDITED JURY TRIAL PROCEDURES)
(This attachment may be used with form EJT-018 OR EJT-020)

The parties have agreed to the following (check all items on which agreements have been reached and describe the agreements in detail. If more space is needed for any item, use form MC-025 and complete item 15 below):

1. *(For voluntary expedited jury trial cases only)* Modifications of the timeline for, or other aspects of, the pretrial submissions required by rule 3.1548 of the California Rules of Court (describe timeline or other changes):

2. Limitations on the number of witnesses per party, including expert witnesses (describe):

3. Modifications of statutory or rule provisions regarding exchange of expert witness information and presentation of testimony by such witnesses (describe):

4. Allocation of time periods stated in rule 3.1550 of the California Rules of Court, including how arguments and cross-examination may be used by each party in the five-hour time frame (describe):

5. Agreement as to any evidentiary matters, including any stipulations or admissions regarding factual matters (state such matters in detail):

6. Agreement about what constitutes necessary or relevant evidence for a particular factual determination (describe):

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
--	--------------

7. Agreement about admissibility of particular exhibits or demonstrative evidence presented without the legally required authentication or foundation (*describe*):
8. Agreement about admissibility of video or written depositions and declarations (*describe*):
9. Agreement about any other evidentiary issues or the application of any of the rules of evidence (*describe*):
10. Agreement to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods for presenting information to the jury (*describe*):
11. Agreement concerning the time frame for filing and serving motions in limine (*describe*):
12. Agreement that fewer than eight jurors may hear this case (*describe*):
13. Agreement concerning the number of jurors required to reach a verdict in this case (*describe, including any agreement regarding loss of juror after trial starts*):
14. Other agreements (*describe*):
15. Form MC-025 is attached, with further details concerning items (*list items*):

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

W16-8

Title	Action Requested
Request to Continue Hearing Date and Extend Temporary Restraining Order in Domestic Violence, Family Law, Juvenile Law, Civil Harassment, Elder Abuse, Private Postsecondary School Violence, and Workplace Violence Cases	Review and Submit Comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rules 5.94 and 5.630; revise forms DV-115, DV-115-INFO, DV-116, DV-200, DV-200-INFO, DV-505-INFO, FL-306, and JV-251	Proposed Effective Date July 1, 2016
Revise forms CH-115, CH-116, EA-115, EA-116, SV-115, SV-116, WV-115, and WV-116; adopt forms CH-115-INFO, EA-115-INFO, SV-115-INFO, and WV-115-INFO	Contact For Family and Juvenile Law: Gabrielle D. Selden, 415-865-8085 gabrielle.selden@jud.ca.gov Frances Ho, 415-865-7662 frances.ho@jud.ca.gov For Civil and Small Claims: Bruce Greenlee, 415-865-7698 bruce.greenlee@jud.ca.gov Anne Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Proposed by
Family and Juvenile Law Advisory
Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Civil and Small Claims Advisory Committee
Hon. Raymond M. Cadei, Chair

Executive Summary and Origin

To implement the recent changes made by Assembly Bill 1081 (Stats. 2015, ch. 411) to Family Code section 245 and Welfare and Institutions Code section 213.5, the Family and Juvenile Law Advisory Committee proposes amendments and revisions to Judicial Council rules and forms

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

relating to a party's request to continue a hearing on a request for a restraining order in a Family or Juvenile Law case.

To implement the recent changes made by AB 1081 to Civil Code sections 527.6, 527.8, and 527.85 and Welfare and Institutions Code section 15657.03, the Civil and Small Claims Advisory Committee proposes revisions to Judicial Council forms relating to a party's request to continue a hearing on a request for a restraining order in a civil harassment, elder abuse, private postsecondary school violence, or workplace violence case.

Prior Circulation

The Family and Juvenile Law Advisory Committee proposed changes to rule 5.94 of the California Rules of Court and *Application and Order for Reissuance of Request for Order and Temporary Emergency Orders* (form FL-306) in the SPR15-16 invitation to comment, *Domestic Violence—Request to Modify or Terminate Domestic Violence Restraining Orders; Family Law—Changes to Request for Order Rules and Forms*.¹ That proposal circulated for comment from April 17 to June 17, 2015. Subsequently, in October 2015, Governor Edmund G. Brown, Jr., approved AB 1081. Because the legislation amended Family Code section 245, rule 5.94 and form FL-306 are required to be recirculated to allow the public to comment on the substantive changes proposed by the committee.

There has been no prior circulation of the forms proposed by the Civil and Small Claims Advisory Committee.

The Proposal

Overview of proposals

Domestic violence and family law proposal. The recent amendments made to Family Code section 245 require a number of changes to existing domestic violence forms—forms DV-115, DV-115-INFO, DV-116, DV-200, DV-200-INFO, DV-505-INFO—as well as a family law rule of court and form, rule 5.94 and form FL-306.² The specific proposed changes are further described in the proposal; however, generally, the proposal involves conforming each to the new provisions in Family Code section 245, which include that:

- The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition;
- Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause;
- The request may be made in writing before or at the hearing or orally at the hearing;
- The court may also grant a continuance on its own motion;

¹ The invitation to comment is available online at www.courts.ca.gov/documents/SPR15-16.pdf.

² The legislation is available online at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1081.

- If the court grants a continuance, any temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court;
- In granting a continuance, the court may modify or terminate a temporary restraining order; and
- A fee shall not be charged for the extension of the temporary restraining order.

Juvenile law proposal. The recent amendments to Welfare and Institutions Code section 213.5 require changes to *Application and Order for Reissuance of Temporary Restraining Order—Juvenile* (form JV-251) and rule 5.630 of the California Rules of Court. The specific proposed changes are further described in the proposal; however, generally, the proposal involves conforming each to the new provisions in Welfare and Institutions Code section 213.5, which include that:

- Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause;
- The responding party shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition;
- The request may be made in writing before or at the hearing or orally at the hearing;
- The court may also grant a continuance on its own motion;
- If the court grants a continuance, any temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court; and
- In granting a continuance, the court may modify or terminate a temporary restraining order.

Civil Harassment, Elder Abuse, Private Postsecondary School Violence, and Workplace Violence proposals. The recent amendments to Civil Code section 527.6 (Civil Harassment), 527.8 (Workplace Violence), 527.85 (Private Postsecondary School Violence), and to Welfare and Institutions Code section 15657.03 (Elder Abuse), require changes to Forms CH-115, EA-115, SV-115, and WV-115, all titled *Request to Continue Court Hearing and Reissue Temporary Restraining Order*, and to Forms CH-116, EA-116, SV-116, and WV-116, all titled *Notice of New Hearing Date and Order on Reissuance*. Additionally, the Civil and Small Claims Advisory Committee proposes adding new forms CH-115-INFO, EA-115-INFO, SV-115-INFO, and WV-115-INFO, modeled after current form DV-115-INFO, to provide parties with the basic information needed to obtain a continuance of a hearing in these proceedings. The proposal involves conforming the forms to the new provisions in the Civil Code and Welfare and Institutions Code sections above regarding continuances, which include that:

- Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause;
- The responding party shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition;

- The request may be made in writing before or at the hearing or orally at the hearing;
- The court may also grant a continuance on its own motion;
- If the court grants a continuance, any temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court; and
- In granting a continuance, the court may modify or terminate a temporary restraining order.

Proposal details

Domestic violence forms / family law rule and forms proposal

Request to Continue Court Hearing and Reissue Temporary Restraining Order (form DV-115)

This form is currently drafted only for the “Person Asking for Protection” by a Domestic Violence Prevention Act temporary restraining order to ask the court to continue the hearing and reissue the orders. The request can be made, for example, if the “Person to be Restrained” has not been personally served with the *Notice of Court Hearing* (form DV-109) and *Temporary Restraining Order* (form DV-110) as required before the court date and the person to be protected wants the temporary restraining order to remain in effect while personal service is attempted for the new hearing date.

A number of revisions are proposed to conform form DV-115 to amended Family Code section 245. The major changes involve expanding its use by the party who was served with the forms (and is thereafter restrained by a *Temporary Restraining Order* (form DV-110) granted by the court). The form would also reflect the new provisions of the statute, as follows:

- The title of the form would be changed to “*Request to Continue Hearing Date (Temporary Restraining Order)*.”
- Item 1 would be changed by replacing the heading “Name of Person Asking for Protection” with “Name of Person Asking to Continue the Hearing Date.” Beneath this heading, two check boxes would require the person completing the form to indicate if he or she is the “Person asking for protection/Protected person” or the “Person to be restrained/Restrained person.”
- Item 2 would be changed by replacing the heading “Name of Person to be Restrained” with “Name of Other Party.” The committee also proposes removing the space for the other party’s mailing address because it is not needed on the form and will be included in the Proof of Service.
- At item 3, the heading would be modified as follows: “Request to Continue Hearing Date ~~and Reissue Temporary Restraining Order~~.”
- Item 3a. would be revised to focus on a party’s request to continue the hearing, and item 3b. would be simplified to identify the reason for the request.

- Under item 3b., two more preprinted subitems would be added to identify the reasons for the request to continue the hearing date. Item 3b.2. would state, “I am the restrained person and this is my first request to continue the hearing date.” Item 3b.3. would state, “I need more time to hire a lawyer or prepare a response.”
- In item 3, the proposal would delete current b., which prompts the user to identify the number of times that any temporary restraining orders have been reissued. The statute was recently revised to delete the provision about a fee being charged if the order was extended more than three times.³ For this reason, the committee believes that the information in the current 3b. is no longer required to implement the statute. However, the committee is interested in feedback about any impact of deleting the language and whether there is a reason for maintaining it on this form.
- Finally, the form would be revised to include a notice box to provide statutory language for the parties’ edification. It would state the following: “Notice: If the hearing date is continued, the *Temporary Restraining Order* (form DV-110) will remain in effect until the end of the continued hearing, unless otherwise ordered by the court.” Including this language will advise either party that the temporary restraining orders automatically remain in effect if the court hearing is continued, so a party does not have to specifically ask the court to extend the expiration date of the order on this form.

Notice of New Hearing and Order on Reissuance (form DV-116)

This form serves as the court order to continue the hearing date on the temporary restraining order. A number of revisions are proposed to conform form DV-116 to amended Family Code section 245, including expanding it for use by the restrained party. Other specific changes include:

- Renaming the form to *Order to Continue Hearing Date (Temporary Restraining Order)*;
- At item 1, changing the heading to “Name of Person Asking for Protection/Protected Person”;
- At item 2, changing the heading to “Name of Person to be Restrained/Restrained Person”;
- Adding a new item 3, “Person Seeking the Continuance,” to specify which party is seeking the continuance and his or her address;
- At item 4, changing the text from “Reason for New Hearing Date” to “Reason for the Continuance”;
- Under item 4, adding new subitems to state, “The person in 2 asked for a first continuance of the hearing,” and “The court orders a continuance in its discretion”;
- In the “New Hearing Date” box in item 5, stating, “The extended *Temporary Restraining Order* (form DV-110) expires at the end of the new hearing”;

³ Family Code section 245(c) formerly provided that “[n]o fee shall be charged for the reissuance of the order unless the order had been dissolved three times previously.”

- Changing the heading in item 6 to “Extended Temporary Restraining Order” and revising this section to reflect the language of the statute;
- Revising item 7 to provide an order for the service requirements in the event that the restrained party obtains an order to continue the hearing date;
- At item 8, revising the text to clarify that no fee is required for the sheriff or marshal to serve the order on the restrained person; and
- Inserting a “CLETS Entry” section at item 9.

As to this form, the committee welcomes suggestions on terms that would be more understandable for self-represented litigants than “continuance.” In addition, the committee solicits comments on whether “Continuance Denied” should be expressly made a part of the forms, given that neither form DV-116 nor the corresponding civil forms provide for the court to deny a continuance.

How to Ask for a New Hearing Date (form DV-115-INFO)

Proof of Personal Service (form DV-200)

What is “Proof of Personal Service”? (form DV-200-INFO)

How Do I Ask for a Temporary Restraining Order? (form DV-505-INFO)

The proposal would revise these forms to (1) delete the term “reissuance” and “reissue” wherever they appear and replace them with “extend” or “extension,” and/or (2) reflect the proposed revised titles of forms DV-115 and DV-116. In addition, form DV-115-INFO would be revised to include a statement that the court can make orders against the restrained person if he or she does not go to the hearing.

Rule 5.94. Order shortening time; other filing requirements

In response to the statutory changes in Family Code section 245, the committee proposes minor as well as substantive changes to the rule. The minor changes include deleting the words “reissuance” and “reissued order” and replacing them with “extension” and “extended order.” The committee also recommends deleting the term “application” and replacing it with “request,” and referencing the term “continuance.”

The substantives changes would include amending the rule to:

- Clarify that failure to timely serve form FL-300 and any temporary emergency orders granted by the court will result in the expiration of the temporary emergency orders at the end of the continued hearing;
- Provide that both parties may ask the court for a continuance; and
- Include the procedure for either party to request the continuance.

The proposal would also include changes to the rule in response to public comments received when the rule previously circulated for comment. Specifically, the rule would be reformatted to improve reading comprehension and reflect the revised title of form FL-305 as of July 1, 2015. It

would also specify that the completed form FL-306 must be attached as the cover page when service on the other party is required.

Application and Order for Reissuance of Request for Order and Temporary Emergency Orders (form FL-306)

This form is used by the moving party to request that the court extend the expiration date of the temporary emergency orders issued on a *Request for Order* (form FL-300). To conform to the changes in Family Code section 245, the committee proposes the following changes:

- Renaming the form to *Request and Order to Continue Hearing Date and Extend Temporary Emergency (Ex Parte) Order*;
- Substituting the word “reissue” with “extend” wherever it appears in the form; and
- Expanding the form to two pages to include new sections for the court to make specific orders relating to the temporary emergency order (item 9) and service (item 10).

Under Family Code section 245, if the court grants a continuance, any temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. Because the extension is automatic under the amended statute, the committee does not propose including check boxes for a party to ask for the extension.

Further, in response to comments received about this form in previous cycles, the committee proposes that:

- The application portion of the form be reorganized and reflect some of the plain-language content in form DV-115;
- The term “court mediator or family court services” be updated to “child custody mediator or child custody recommending counselor”; and
- The form be revised to include an order shortening time for service or time for the hearing.

Finally, the committee proposes deleting the current item 5 at which a party indicates the number of times that the orders have been reissued. This information might have been added as a reference to Family Code section 245(c), which provided that “[n]o fee shall be charged for the reissuance of the order unless the order had been dissolved three times previously.” Because that language was deleted from the statute, effective January 1, 2016, the item may no longer be relevant or required. Without a specific statutory requirement for asking the question, the committee proposes that it be removed from the form. However, the committee seeks comment from the public giving any specific reason why the item should remain on the form.

Juvenile law proposal

Rule 5.630

In response to the statutory changes to Welfare and Institutions Code section 213.5, the committee proposes minor changes to rule 5.630(e). The proposed revisions are to:

- Rename the title of subdivision (e) to *Continuance* rather than *Reissuance*;
- Delete language that restates statutory provisions in paragraphs (e)(1) and (e)(2); and
- Refer to form JV-251 by its new title, *Application and Order to Continue Hearing Date (Temporary Restraining Order—Juvenile)*.

Application and Order to Continue Hearing Date (Temporary Restraining Order—Juvenile)
(form JV-251)

A number of revisions are proposed to conform form JV-251 to amended Welfare and Institutions Code section 213.5. The major changes involve expanding its use to allow either party to use the form to request a continuance. The form would also reflect the new provisions of the statute, as follows:

- The title of the form would be changed to *Application and Order to Continue Hearing Date (Temporary Restraining Order—Juvenile)*;
- Item 2 would be changed to allow either side to indicate that they are requesting a continuance;
- At item 3, the applicant would indicate the reason for the continuance, and additional grounds for a continuance would be added;
- At item 5, a new section would be added to allow the court to indicate whether a temporary restraining order is in effect and, if so, whether the court is extending, modifying, or terminating the temporary restraining order;
- Item 6, *Service of Order*, would be changed to include additional service options, including service on the petitioner (person who requested the restraining order); and
- A “Transmittal Order” section would be inserted at item 7.

Civil forms revisions proposal

Request to Continue Court Hearing and to Reissue Temporary Restraining Order
(Forms CH-115, EA-115, SV-115, and WV-115)

All four of these forms are currently the same except for caption information. The proposed revisions closely mirror those proposed above for Form DV-115, except that the four civil 115 forms would maintain the item that asks about previous requests for continuances and the number of prior continuances granted.

These forms are currently drafted only for use by the petitioner (the person who is seeking protection). The forms are proposed to be revised for use by either party. The titles would be changed to simply *Request to Continue Court Hearing*. All references to “reissuance” would be removed. The form would advise the person seeking the continuance that if a temporary restraining order (TRO) was issued in the case, it will be extended and remain in effect through the new hearing date. There is no need to specifically request that the TRO be extended.

The four civil 115 forms would also ask about previous requests for continuances and the number of prior continuances granted.

Notice of New Hearing Date and Order on Reissuance (Forms CH-116, EA-116, SV-116, and WV-116)

Like Form DV-116, these forms serve as the court order to continue the hearing date on the request for a restraining order. The four forms are currently the same except for caption information. Again, the proposed changes for the most part mirror those proposed above for DV-116, except as to the title.

Instead of *Order to Continue Hearing Date (Temporary Restraining Order)*, the Civil and Small Claims Advisory Committee proposes that the title of Forms CH-116, EA-116, SV-116, and WV-116 be changed to *Order on Request to Continue Hearing*. The committee seeks comments about whether the form names should be harmonized.

Neither Form DV-116 nor the corresponding civil forms provide for the court to deny a continuance. Comments are sought on whether “Continuance Denied” should be expressly made a part of the forms.

Again, all references to “reissuance” would be removed from the forms. Instead, proposed Item 6 would address the extension of the TRO through the new hearing date. There are options for the court to extend without change, extend but modify, or terminate the TRO, as permitted by the revised statutes.

As with proposed Form DV-116, there are expanded options for service of the form on the other party. In Item 8, there is an option to provide that the sheriff or marshal will serve the order without charge. This item differs from that on Form DV-116 because the civil proceedings statutes (except for Elder Abuse) do not automatically authorize free service.

How to Ask for a New Hearing Date (Forms CH-115-INFO, EA-115-INFO, SV-115 INFO, and WV-115 INFO)

The proposal would create four new information forms, CH-115-INFO, EA-115-INFO, SV-115 INFO, and WV-115 INFO, all titled *How to Ask for a New Hearing Date*. The forms would be virtually identical to DV-115-INFO, as revised as noted above.

Alternatives Considered

The Family and Juvenile Law Advisory Committee considered making technical changes to rule 5.94 and forms DV-115, DV-115-INFO, DV-116, DV-200, DV-200-INFO, DV-505-INFO, and FL-306 and including the revised forms in the report to the Judicial Council for SPR15-16 title *Domestic Violence—Request to Modify or Terminate Domestic Violence Restraining Orders; Family Law—Changes to Request for Order Rules and Forms*. After further review of the broader impact of AB 1081 on Judicial Council rules and forms, the committee decided not to take this action.

The committee recognized that additional changes would be needed to comply with the mandate of AB 1081. For example, (1) juvenile rules and forms would also need to be revised to conform to AB 1081's amendments to Welfare and Institutions Code section 213.5; (2) efforts should be made to harmonize the domestic violence, civil harassment, juvenile, elder abuse, and workplace violence forms affected by the legislation; and (3) public comment should be sought on the proposal because it would involve more than minor, technical changes. In light of the complexity of the legislation, the committee decided to propose circulating the rules and forms affected by AB 1081 in a separate invitation to comment for the winter 2016 cycle.

The Civil and Small Claims Advisory Committee did not consider proceeding with technical changes, without circulating the forms for comment, for the reasons noted above. The committee was concerned, however, that if these forms are not in place by January 1, 2016, the current forms, which do not accurately reflect the law, will continue to be available for use for another six months. Therefore, the committee considered, but rejected, the option of temporarily revoking the 115 and 116 forms and replacing them with these proposed forms for July 1. The committee also considered asking for immediate approval of the forms for January 1, 2016, with circulation for comment to follow. However, the Civil and Small Claims Advisory Committee decided that it would be best to circulate the civil forms together with the Family and Juvenile Law forms during this comment period, with a July 1, 2016 effective date for all the new and revised forms.

Implementation Requirements, Costs, and Operational Impacts

The committees anticipate that these proposals will result in some costs incurred by the courts to revise forms, train court staff about the changes to the rules and forms included in this proposal, and possibly revise local court rules and forms so they are consistent with the changes adopted by the Judicial Council. However, the changes are required by the recent legislation. Furthermore, the committee expects that the changes will save court resources by clarifying and simplifying procedures.

Request for Specific Comments

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

- Should forms FL-306, DV-115, CH-115, EA-115, SV-115, and WV-115 maintain an item for a party to indicate the number of times the hearing has been continued?
- Should the forms maintain an item for a party to specify the date of the last hearing?
- Are there ways to further harmonize the domestic violence and juvenile law forms in this proposal with the changes proposed by the Civil and Small Claims Advisory Committee to the civil harassment, elder abuse, and workplace violence forms?
- Should the 116 forms for the court's order include an option to deny a continuance?
- Should the title of form DV-116 be made the same as that on the other civil forms? Is there another title that would be more suitable for these forms in light of the requirements of AB 1081? Is there a term that is more understandable for self-represented litigants than "continuance"?
- How would this proposal affect low- or moderate-income members of the public?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What are the implementation requirements for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Is the notice provided in plain language such that it will be accessible to a broad range of litigants, including self-represented litigants?

Attachments

1. Cal. Rules of Court, rules 5.94 and 5.630, at pages 12–15
2. Forms DV-115, DV-115-INFO, and DV-116, at pages 16–20
3. Forms DV-200, DV-200-INFO, and DV-505, at pages 21–26
4. Form FL-306, at pages 27–28
5. Form JV-251, at pages 29–30
6. Forms CH-115, CH-115-INFO, and CH-116, at pages 32–36
7. Forms EA-115, EA-115-INFO, EA-116, at pages 37–42
8. Forms SV-115, SV-115-INFO, SV-116, at pages 43–48
9. Forms WV-115, WV-115-INFO, WV-116, at pages 49–54

Rules 5.94 and 5.630 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 **Rule 5.94. Order shortening time; other filing requirements; request to continue**
 2 **hearing date and extend temporary emergency (ex parte) orders**

3
 4 **(a) Order shortening time**

5
 6 * * *

7
 8 **(b) Time for filing proof of service**

9
 10 * * *

11
 12 **(c) ~~(d)~~ Filing of late papers**

13
 14 No moving or responding papers relating to a request for order may be rejected for
 15 filing on the ground that ~~it was~~ they were untimely submitted for filing. If the court,
 16 in its discretion, refuses to consider a late filed paper, the minutes or order must so
 17 indicate.

18
 19 **(d) ~~(e)~~ Computation of Timely submission to court clerk**

20
 21 Moving or responding papers are deemed timely filed if they are submitted; before
 22 the close of the clerk's office to the public on the day that the paper is due is
 23 deemed timely filed.

24
 25 (1) Before the close of the court clerk's office to the public; and

26
 27 (2) On or before the day the papers are due.

28
 29 **(e) ~~(e)~~ Failure to timely serve ~~moving papers~~ request for order and temporary
 30 **emergency (ex parte) orders****

31
 32 ~~If a *Request for Order* (FL 300) is not timely served on the opposing party, the~~
 33 ~~moving party must notify the court as soon as possible before the date assigned for~~
 34 ~~the court hearing and request a new hearing date to allow additional time to serve~~
 35 ~~the *Request for Order* (FL 300) and supporting documents.~~

36
 37 ~~The moving party must also request that the court reissue the *Request for Order*~~
 38 ~~(FL 300) and any temporary orders. To do so, the moving party must complete and~~
 39 ~~submit to the court an *Application and Order for Reissuance of Request for Order*~~
 40 ~~(form FL 306).~~

1 The Request for Order (form FL-300) and Temporary Emergency (Ex Parte)
 2 Orders (form FL-305) will expire on the date and time of the scheduled hearing if
 3 the moving party fails to:

- 4
 5 (1) Have the other party timely served before the hearing with the Request for
 6 Order (form FL-300), supporting documents, and any orders issued on
 7 Temporary Emergency (Ex Parte) Orders (form FL-305); or
 8
 9 (2) Obtain a court order to continue the hearing.

10
 11 **(f) Procedures to request continued hearing date and extension of temporary**
 12 **emergency (ex parte) orders**

13
 14 (1) If a Request for Order (form FL-300) that includes temporary emergency
 15 orders is not timely served on the other party before the date of the hearing,
 16 and the party granted the temporary emergency (ex parte) order wishes to
 17 proceed with the request, he or she must ask the court to continue the hearing
 18 date. On a showing of good cause, or on its own motion, the court may grant:

19
 20 (A) The continuance and extend the expiration date of the temporary
 21 emergency order until the end of the continued hearing or to another date
 22 ordered by the court.

23
 24 (B) The party's request to modify the temporary emergency (ex parte) order.

25
 26 (C) The party's request to terminate the temporary emergency (ex parte)
 27 order.

28
 29 (2) The party served with a Request for Order (form FL-300) that includes a
 30 temporary emergency (ex parte) order:

31
 32 (A) Is entitled to one continuance for a reasonable period of time to respond
 33 and, thereafter, to a continuance based on a showing of good cause.

34
 35 (B) Must file and serve a Responsive Declaration to Request for Order (form
 36 FL-320) as required by the court order.

37
 38 (3) The following procedures apply to either party's request to continue the
 39 hearing:

40
 41 (A) The party asking for the continuance must complete and submit an
 42 original Request and Order to Continue Hearing Date and Extend

1 Temporary Emergency (Ex Parte) Order (form FL-306) with two copies
2 for the court to review, as follows:

3
4 (i) The form should be submitted to the court no later than five court
5 days before the hearing date originally set on the *Request for*
6 *Order*.

7
8 (ii) The party may present the form to the court at the hearing of the
9 *Request for Order*.

10
11 (iii) The party who makes an oral request to the court on the date of
12 the hearing is also required to complete and submit form FL-306
13 if the court grants the request.

14
15 (B) After the court signs and files form FL-306, a filed copy must be served
16 on the other party, unless the court orders otherwise. If the continuance
17 is granted:

18
19 (i) Before the other party is served with notice of the hearing and
20 temporary emergency (ex parte) order, then form FL-306 must be
21 attached as the cover page and served along with the *Request for*
22 *Order* (form FL-300), the original or modified temporary
23 emergency (ex parte) order, and supporting documents.

24
25 (ii) To the responding party, and the party who asked for the
26 temporary emergency order was absent when the continuance was
27 granted, then form FL-306 must be attached as the cover page to
28 any documents the court orders served on that party.

29
30 (iii) Service must be in the manner required by rule 5.92 or as ordered
31 by the court.

32
33 (C) If the *Request and Order to Continue Hearing Date and Extend*
34 *Temporary Emergency (Ex Parte) Order* (form FL-306), *Request for*
35 *Order* (FL-300), original or modified temporary emergency order, and
36 supporting documents are not timely served on the other party, and the
37 moving party wishes to proceed with the hearing, he or she must repeat
38 the procedures in this rule.

39
40

1 **Rule 5.630. Restraining orders**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

(a)–(d) * * *

(e) **Reissuance**Continuance

- (1) ~~The court may, on its own motion or the filing of a declaration by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by the law and reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The court may grant a continuance under Welfare and Institutions Code section 213.5.~~
- (2) ~~The reissued order must state on its face the date of expiration of the order.~~
- (3) Either *Application and Order for Reissuance of to Continue Hearing Date (Temporary Restraining Order—Juvenile)* (form JV-251) or a new *Notice of Hearing and Temporary Restraining Order—Juvenile* (form JV-250) must be used for this purpose.

(f)–(k) * * *

DV-115

**Request to Continue Hearing Date
(Temporary Restraining Order)**

Clerk stamps date here when form is filed.

DRAFT A

**NOT APPROVED
BY THE JUDICIAL
COUNCIL**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

Use this form to ask the court to change the hearing date listed on form [DV-109, Notice of Court Hearing](#). (Read [DV-115-INFO](#), How to Ask for a New Hearing Date for more information).

1 Name of Person Asking to Continue the Hearing Date

I am the: Person asking for protection/Protected person
 Person to be restrained/Restrained Person

Your lawyer in this case (if you have one):
Name: _____ State Bar No.: _____
Firm Name: _____

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.)

Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____
E-Mail Address: _____

2 Name of Other Party

3 Request to Continue Hearing Date

- a. I ask the court to continue the hearing currently scheduled on (date): _____
- b. I ask the court to continue the hearing date because (specify): _____
 - (1) I could not get the papers served before the hearing date.
 - (2) I am the restrained person and this is my first request to continue the hearing date.
 - (3) I need more time to hire a lawyer or prepare a response.
 - (4) Other (specify): _____

Notice: If the hearing date is continued, the Temporary Restraining Order (Form [DV-110](#)) will remain in effect until the end of the continued hearing, unless otherwise ordered by the court.

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

Date: _____

Lawyer's name, if you have one

Lawyer's signature

This is not a Court Order.

DV-115-INFO How to Ask for a New Hearing Date

You may need to ask for a new hearing date if:

- You are the **person asking for protection/protected person** and are unable to have form [DV-109, Notice of Court Hearing](#), and other papers served in time before the hearing date.
- You are the **restrained person** and it is your first time asking the court to continue the hearing.
- Either person has a good reason for needing a new hearing date (the court may grant a request to continue the hearing on a showing of “good cause”).

What does form DV-115 do?

Use form [DV-115](#) to ask the court to “continue” the hearing. You may also ask to “extend” any temporary restraining orders using form [DV-110, Temporary Restraining Order](#).

- “Continue” the hearing means to give you a new hearing date.
- “Extend” means to keep any temporary orders in effect until the new hearing date.

Follow these steps:

- Fill out all of form [DV-115](#).
- Fill out items ① through ③ on form [DV-116, Order to Continue Hearing Date \(Temporary Restraining Order\)](#).
- 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 continue the hearing.
- If the judge signed form [DV-116](#), the court will give you a new hearing date. If the judge did NOT sign the form, you should go to the hearing at the date, time, and location that is shown on form DV-109.
- Next, file both forms DV-115 and DV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to court on the hearing date.
- The other party must be served a copy of the court papers as described in item ⑦ on form [DV-116](#).
- 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 form [DV-200, Proof of Personal Service](#). If service was by mail, use form [DV-250, Proof of Service by Mail](#). Make two copies of the completed forms.
- File the completed and signed proof of service form with the clerk’s office before the hearing.
- If the court continues the hearing date and extends the expiration date of the temporary restraining order to the date of the new hearing, the clerk will send the restraining order to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about the order.

Go to the hearing

- Take with you to the court hearing a copy of all of your papers and the original *Proof of Service*.
- If the protected person does not go to the hearing, the temporary domestic violence restraining orders will expire on the date and time of the hearing. If the restrained person does not go to the hearing, the court can still make orders against him or her that can last for up to five years.

Need help?

Ask the court clerk about free or low-cost legal help. For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline: **1-800-799-7233 (TDD: 1-800-787-3224)**. It’s free and private. They can help you in more than 100 languages.

DV-116

Order to Continue Hearing Date (Temporary Restraining Order)

Clerk stamps date here when form is filed.

**NOT APPROVED
BY THE JUDICIAL
COUNCIL**

Complete items (1), (2), and (3). (The Court will fill out all other sections)

1 Name of Person Asking for Protection/Protected Person:

2 Name of Person to Be Restrained/Restrained Person:

3 Person Seeking the Continuance

I am the: person in (1) person in (2).

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

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.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

4 Reason for the Continuance

a. The hearing currently scheduled for (date): _____ is continued to the date, time, and location in (5).

b. The continuance is needed because:

(1) The person in (2) was not served before the current hearing date.

(2) The parties were referred to Family Court Services.

(3) The person in (2) asked for a first continuance of the hearing.

(4) The person in (2) asked for more time to hire a lawyer or prepare a response.

(5) Other (specify): _____

c. The court orders a continuance in its discretion.

5 Order for Continuance and Notice of New Hearing

The Notice of Court Hearing (form DV-109) is continued to the date, time, and location shown below:

**New
Hearing
Date**

Date: _____ Time: _____ Name and address of court, if different from above: _____

Dept.: _____ Room: _____ _____

The extended Temporary Restraining Order (form DV-110) expires at the end of the new hearing.

This is a Court Order.



Case Number:

6 Extended Temporary Restraining Order

- a. No temporary restraining orders were issued in this case.
- b. By granting the request to continue the hearing, the orders listed in *Temporary Restraining Order* (form DV-110), issued on (date): _____, remain in effect until the end of the hearing in (5).
- c. The Temporary Restraining Order is MODIFIED. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in (5).
- d. The Temporary Restraining Order is TERMINATED.
- e. Other (specify): _____
- _____
- _____
- _____

Warning and Notice to the Person in 2

If (6) b or c is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in (5).

7 Service of Order

- a. No further service of this Order is required because both parties were present at the hearing when the new hearing date was ordered.
- b. The court granted the **protected person's** request to continue the hearing date. A copy of this Order must be served on the **restrained person** at least _____ days before the hearing in (5).
- (1) All other documents requesting domestic violence restraining orders as shown in Form DV-109, *Notice of Court Hearing* (at item (6)) must also be served on the **person to be restrained**.
- (2) The *Temporary Restraining Order* (Form DV-110) has been modified and must be served on the **person to be restrained/restrained person**.
- (3) A copy of the *Temporary Restraining Order* must NOT be served because the order was terminated in 6d.
- c. The court granted the **restrained person's** request to continue the hearing date. A copy of this Order must be served on the **protected person** at least _____ days before the hearing in (5). A copy of the *Temporary Restraining Order* (Form DV-110) must be served if it was modified by the court in item (6).
- d. All documents must be personally served unless otherwise specified below.
- e. Other (specify): _____

This is a Court Order.

**Order to Continue Hearing Date
(Temporary Restraining Order)(CLETS-TRO)
(Domestic Violence Prevention)**

DV-116, Page 2 of 3



Case Number: **8 No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this order on the restrained person, he or she will do it for free.

9 CLETS Entry

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Order System (CARPOS) via the California Law Enforcement Telecommunications System (CLETS).

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 *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate
[seal]

I certify that this *Order to Continue Hearing Date (Temporary Restraining Order)* (CLETS-TRO) is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

DV-200 Proof of Personal Service

Clerk stamps date here when form is filed.

1 Name of Person Asking for Protection:

2 Name of Person to Be Restrained:

3 Notice to Server

The server must:

- Be 18 years of age or older.
- Not be listed in items 1 or 3 of form DV-100, Request for Domestic Violence Restraining Order.
- Give a copy of all documents checked in 4 to the restrained 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.



4 I gave the person in 2 a copy of all the documents checked:

- a. 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)
- b. DV-110 (Temporary Restraining Order)
- c. DV-105 and DV-140 (Request for Child Custody and Visitation Orders, Child Custody and Visitation Order)
- d. FL-150 with a blank FL-150 (Income and Expense Declaration)
- e. FL-155 with a blank FL-155 (Financial Statement (Simplified))
- f. DV-115 (Request to Continue Hearing Date (Temporary Restraining Order))
- g. DV-116 (Order to Continue Hearing Date (Temporary Restraining Order))
- h. DV-130 (Restraining Order After Hearing)
- i. Other (specify):

5 I personally gave copies of the documents checked above to the person 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

DRAFT -
NOT APPROVED BY THE
JUDICIAL COUNCIL

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:

DV-200-INFO**What Is “Proof of Personal Service”?****What is “service”?**

Service is the act of giving your legal papers to the other person. There are many kinds of service—in person, by mail, and others. This form is about personal or “in-person” service. The *Notice of Court Hearing* ([form DV-109](#)), *Request for Domestic Violence Restraining Order* ([form DV-100](#)), and *Temporary Restraining Order* ([form DV-110](#)) must be served “in person.” That means someone—not you or anyone else protected by the order—must personally “serve” (give) the person to be restrained a copy of the forms. You cannot send them by mail. Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

**Why do I have to get the orders served?**

- The *police cannot arrest* anyone for violating an order *unless* the restrained person knows about the order.
- The *judge cannot make the orders permanent* unless the restrained person was served.

Who can serve?

Ask someone you know, a process server, or a law enforcement agency (for example, a sheriff) to personally serve (give) a copy of the orders 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 over
- Not be you or anyone to be protected by the orders

A sheriff can serve the order at no cost to you.

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.

(Note: If a law enforcement agency or the process server uses a different proof of service form, make sure it lists the forms served.)



Don't serve it by mail!

How does the server “serve” the legal papers?

Ask the server to:

- Walk up to the person to be served.
- Make sure it’s the right person. Ask the person’s name.
- Give the person copies of all papers checked on [form DV-200, Proof of Personal Service](#).
- Fill out and sign [form DV-200](#).
- Give the signed [form DV-200](#) 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.



DV-200-INFO What Is “Proof of Personal Service”?

When do the orders have to be served?

It depends. To know the exact date, you have to look at two things on [form DV-109](#):

First, look at the hearing date on page 1 of [form DV-109](#). Next, look at the number of days written in item (5) on page 2.

3 Notice of Court Hearing
A court hearing is scheduled on the request.

Hearing Date	Date: _____	Time: _____
	Dept.: _____	Room: _____

5 Service of Documents and Time for
At least five or _____ days before the hearing to the person in (2) protected—must personally give (serve) a copy of the following (Hearing) to the person in (2) along with a copy of the following:

- Form DV-100, *Request for Domestic Violence Restraining Order*
- Form DV-110, *Temporary Restraining Order*
- Form DV-120, *Response to Request for Restraining Order* or Form DV-250, *Proof of Personal Service*

Look at a calendar. Subtract the number of days in item (5) from the hearing date. That’s the final date to have the orders served. It’s always OK to serve earlier than that date.

If nothing is written in item (5) you must have the papers served at least five (5) days before the hearing.

Who signs the *Proof of Personal Service*?

Only the person who serves the orders can sign the *Proof of Personal Service* ([form DV-200](#)). You do not sign it. The person to be restrained does not sign it.

What happens if I cannot get the papers served before the hearing date?

Before your hearing, fill out and file a *Request to Continue Hearing Date* ([form DV-115](#)) and *Order to Continue Hearing Date (Temporary Restraining Order)* ([form DV-116](#)). These forms ask the judge for a new hearing date and make any temporary orders last until then. Ask the clerk for the forms or go to www.courts.ca.gov.

You **must** attach a copy of [form DV-115](#) and [form DV-116](#) to a copy of your original order. That way, the police will know your orders are still in effect. And the restrained person will be served with notice of the new hearing date. For more information on getting a new hearing date, read [form DV-115-INFO](#), *How to Ask for a New Hearing Date*.

What do I do with the completed *Proof of Personal Service*?

Bring a copy of the original *Proof of Personal Service* ([form DV-200](#)) to your hearing.

If the sheriff serves the orders, he or she will send the *Proof of Personal Service* to the court and CLETS (California Law Enforcement Telecommunications System), a statewide computer system that lets police know about your order, for you.

If someone other than the sheriff serves the orders, you should:

- If possible, file the original *Proof of Personal Service* ([form DV-200](#)) with the court at least two (2) days before your hearing. If you were unable to do this, bring the original *Proof of Personal Service* to your hearing.
- The clerk will send it to CLETS.
- Always keep an extra copy of the restraining orders with you for your safety.

DV-505-INFO How Do I Ask For a Temporary Restraining Order?**1 Use this form as a checklist.**

(Look at the numbers at the top of your forms.)

a. For a restraining order you need these forms:

- [DV-100](#) Request for Domestic Violence Restraining Order
- [CLETS-001](#) (Confidential CLETS Information)
- [DV-109](#) Notice of Court Hearing
- [DV-110](#) Temporary Restraining Order

b. If you have children with the person you want protection from, you also need these forms:

- [DV-105](#) Request for Child Custody and Visitation Orders
- [DV-140](#) Child Custody and Visitation Order

c. If you want child support or spousal support, you also need form:

- [FL-150*](#) Income and Expense Declaration or
- [FL-155*](#) Financial Statement (Simplified)

* Read *Which Financial Form—FL-155 or FL-150?* (form [DV-570](#)) to know which one is right for you.

d. Ask the clerk if your county has special forms or rules.

e. There are other forms you will need later (*do not fill them out now*):

- [DV-120](#) Response to Request for Domestic Violence Restraining Order
- [DV-130](#) Restraining Order After Hearing (Order of Protection)
- [DV-200](#) Proof of Personal Service

DV-109 Notice of Court Hearing

① Name of Person Asking for Order

Your lawyer in this case (if you have one)

2 Fill out the forms you need and take them to the court clerk. The clerk will give your forms to the judge. The judge will look at them and decide whether to make (“grant”) the temporary orders. Sometimes the judge will want to talk to you. If so, the clerk will tell you.

3 Find out if the judge made the temporary restraining orders. Ask the clerk when to come back to see if the judge signed the order ([Form DV-110](#)). The judge must decide by the next business day. If the judge grants a temporary restraining order, check it carefully to see what the orders are. The judge might not order everything you requested. The court will set a hearing date on [Form DV-109](#) whether or not the judge grants any temporary orders.

4 “File” the judge’s order. The clerk will keep the original forms for the court and will file-stamp up to three copies for you. If you need more, you may make them yourself.

What to do with your copies:

- Keep one copy with you, always. You may need to show it to the police.
- Keep another copy in a safe place.
- Give a copy to anyone else protected by the order.
- Take copies to places where the restrained person is ordered not to go (school, work, child care, etc.)
- Give a copy to the security officers in your apartment building and workplace.

Restraining orders get entered into CLETS, a statewide computer system that lets police know about your order. The court will send the order to law enforcement or CLETS for you.



DV-505-INFO How Do I Ask For a Temporary Restraining Order?

5 Know your hearing date: [Form DV-109](#)

Look at [Form DV-109](#) for the date and time of your hearing. You **must** go to your hearing to get a permanent order.

The order you have now only lasts for about three weeks. Any orders made on [Form DV-110](#) (*Temporary Restraining Order*) will end on the hearing date.

You have the right to cancel the hearing. Read page 2 of [Form DV-109](#) for information.

6 “Serve” the restrained person.

Ask someone you know, a process server, or law enforcement to personally “serve” (give) the restrained person a copy of the notice of hearing, the order, and other papers. You **cannot** serve the papers yourself. They **cannot** be sent by mail. The server must:

- Be 18 years of age or older
- Not be listed in item ① or ③ of [Form DV-100](#), *Request for Domestic Violence Restraining Order*.

Law enforcement will serve the orders for **free**, but you have to ask.

A “process server” is a business you pay to deliver court forms. Look in the Yellow Pages under “Process Serving.”

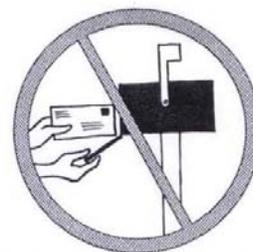
If law enforcement or the process server uses a different Proof of Service form, make sure the form lists all the forms served.

7 File the *Proof of Personal Service* ([Form DV-200](#)).

The *Proof of Personal Service* shows the judge and police that the restrained person got a copy of the request for orders. Make three copies of the completed *Proof of Personal Service*. Take the original and copies to the court clerk as soon as possible **before your hearing**. The clerk will keep the original and give you back the copies stamped “Filed.” Bring a copy to your hearing.

Keep one copy with you and another in a safe place in case you need to show it to the police. Give the other copies out as you did in ④. The court will send your completed *Proof of Personal Service* to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about your order.

If the sheriff serves your order, he or she will send the *Proof of Personal Service* to the court and to CLETS for you.



Don't serve it by mail!

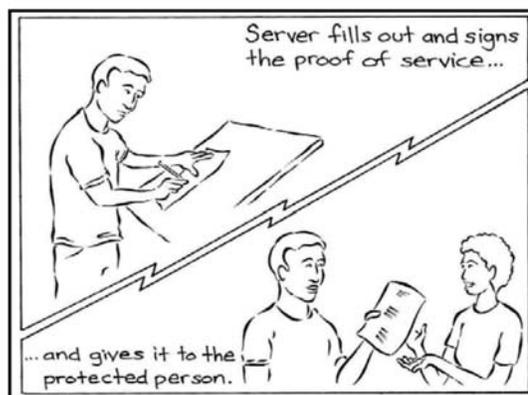


DV-505-INFO How Do I Ask For a Temporary Restraining Order?

8 If the restrained person wasn't served . . .

The restrained person **must** be served before the hearing. If the restrained person wasn't served, fill out [Form DV-115](#) (*Request to Continue Hearing Date*) and the top of [Form DV-116](#) (*Order to Continue Hearing Date*) to ask the judge for a new hearing date. Do this **before** or **at** your hearing. (If you wait until after the hearing, you have to start from the beginning and complete all of the forms again.)

If the judge signs [Form DV-116](#), any restraining orders will last until the new hearing date.



- File the signed order ([Form DV-116](#)) with the clerk. The clerk will send it to law enforcement or CLETS for you.
- Attach Form DV-115 and Form DV-116 to your other court papers and have the restrained person personally served.
- After serving the orders, the server fills out and signs [Form DV-200](#), *Proof of Personal Service*, and gives it to you.
- File the original Form DV-200, *Proof of Personal Service*, and bring a copy to your hearing.
- Bring a copy of Form DV-115 and Form DV-116 to your hearing.

9 Need help?

The clerk has information sheets that can help you. Or you can get them at www.courts.ca.gov/forms.

- *Can a Domestic Violence Restraining Order Help Me?* ([Form DV-500-INFO](#))
- *What Is "Proof of Personal Service"?* ([Form DV-200-INFO](#))
- *Get Ready for the Court Hearing* ([Form DV-520-INFO](#))
- *How to Enforce Your Restraining Order* ([Form DV-530-INFO](#))
- *How Can I Respond to a Request for Domestic Violence Restraining Order?* ([Form DV-120-INFO](#))
- *How Do I Ask the Court to Renew My Restraining Order?* ([Form DV-700-INFO](#))
- *Which Financial Form—FL-155 or FL-150?* ([Form DV-570](#))

10 Need more help?

- Ask the court clerk about free or low-cost legal help.
- For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence : Hotline:

1-800-799-7233

TDD: 1-800-787-3224

It's free and private. They can help you in more than 100 languages.

PARTY WITHOUT ATTORNEY OR ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO. (optional): _____ E-MAIL ADDRESS: ATTORNEY FOR (name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></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: RESPONDENT: OTHER PARENT/PARTY:	
<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"> REQUEST AND ORDER TO CONTINUE HEARING DATE AND EXTEND TEMPORARY EMERGENCY (EX PARTE) ORDER </div> <div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"> CASE NUMBER: _____ </div> </div>	

REQUEST

1. Name of person making the request: _____
2. I request that the court continue the hearing date of the *Request for Order* ([form FL-300](#)) _____
3.
 - a. The temporary emergency (ex parte) orders were originally issued on (date): _____
 - b. The last scheduled hearing date was (date): _____
4. I request the continuance because (check all boxes that apply)
 - a. The papers could not be served as required before the hearing date on (specify): Petitioner Respondent Other Parent/Party Other (specify): _____
 - b. The parties were ordered to meet with a child custody mediator or child custody recommending counselor.
 - c. I am the responding party and this is my first request to continue the hearing. _____
 - d. I need more time to hire a lawyer or prepare a responsive declaration. _____
 - e. Other (specify): _____

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

COURT ORDER

FOR COURT USE ONLY

5. The hearing date for the *Request for Order* (form FL-300) is continued as follows: _____

Date:	Time:	Dept.:	Room:
at the street address of the court shown above.			

6. The temporary emergency orders expire (check one): at the end of the new hearing date in 5 on (date): _____
7. Time for service until the hearing is shortened. Service must be on or before (date): _____
8. A *Responsive Declaration to Request for Order* ([form FL-320](#)) must be served on or before (date): _____

PETITIONER:	CASE NUMBER:
RESPONDENT:	
OTHER PARENT/PARTY:	

9. Temporary emergency (ex parte) orders

- a. No temporary emergency orders were issued in the case. Therefore, no orders are extended.
- b. The orders issued in *Request for Order* (form FL-300) on (date): _____ are (check one)
- (1) modified. See attached modified order issued as of this date.
- (2) terminated.
- c. The orders issued in *Temporary Emergency (Ex Parte) Order* (form FL-300) on (date): _____ (check one)
- (1) modified. See attached modified order issued as of this date.
- (2) terminated.
- d. Other (specify): _____

10. Orders regarding service

- a. No further service is required. Both parties were present at the hearing when the court granted this order.
- b. The Petitioner Respondent Other Parent/Party Other (specify): _____ must be served the following documents (specify):
- (1) A filed copy of this order (form FL-306) as the cover page to any other documents served on the party.
- (2) A copy of the filed *Request for Order* (form FL-300)
- (3) A copy of the filed *Temporary Emergency (Ex Parte) Order* (form FL-305)
- (4) A copy of the modified temporary emergency (ex parte) order
- (5) Other (specify): _____
- c. The documents must be served by (specify):
- (1) Personal service.
- (2) Mail.
- d. Other orders regarding service (specify): _____

11. Other orders

Date: _____



 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>Name</i>): _____	DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
APPLICATION AND ORDER TO CONTINUE HEARING DATE (TEMPORARY RESTRAINING ORDER—JUVENILE)	CASE NUMBER: _____

1. Name of applicant: _____
2. I ask the court to continue the hearing currently scheduled on (*date*): _____
3. I ask the court to continue the hearing date because _____
 - a. I could not get the papers served before the hearing date. _____
 - b. I am the restrained person and this is my first request to continue the hearing date. _____
 - c. I need more time to hire a lawyer or prepare a response. _____
 - d. Other (*specify*): _____

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)

(The court will complete the section below)

ORDER

4. The hearing is reset as follows: _____

New Hearing Date: _____	Time: _____	Dept.: _____	Room: _____
Name and address of court if different from above: _____			
Any orders granted in item 5 remain in effect until the end of the new hearing.			

5. **TEMPORARY RESTRAINING ORDER** _____
- a. No temporary restraining orders were issued in this case and therefore no orders are extended. _____
 - b. The *Temporary Restraining Order* (form JV-250) issued on (*date*): _____ remains in effect until the end of the hearing in item 4. _____
 - c. The *Temporary Restraining Order* is MODIFIED. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in item 4. _____
 - d. The *Temporary Restraining Order* (form JV-250) issued on (*date*): _____ is TERMINATED. _____
 - e. Other (*specify*): _____

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

6. **Service of Order**

- a. No further service of this Order is required. Both parties were present at the hearing.
- b. Applicant's request to continue the hearing is granted. A copy of this Order must be served on the restrained person at least _____ days before the hearing in item 4.
 - (1) In addition, a copy of the *Request for Restraining Order* (form JV-245) and *Temporary Restraining Order* (form JV-250) must be served on the restrained person.
- c. Restrained person's request to continue the hearing is granted. A copy of this Order must be served at least _____ days before the hearing in item 4 on the: Petitioner (Person who requested restraining order)
 Other: _____
- d. Other (*specify*): _____

7. **Transmittal order.** The data in this order must be transmitted within one business day to law enforcement personnel. This order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS).

- a. The court will enter the order into CARPOS through CLETS directly.
- b. The court or its designee will transmit a copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CARPOS through CLETS.
If designee, insert name: _____

8. All orders will end at the end of the hearing scheduled for the date and time shown in item 4 unless otherwise ordered.

Date: _____

JUDICIAL OFFICER

CH-115-INFO How to Ask for a New Hearing Date

You may need to ask for a new hearing date if:

- You are the **Person Asking for Protection** and are unable to have form CH-109, *Notice of Court Hearing*, and other papers served in time before the hearing date.
- You are the **Person to Be Restrained**, and this is your first time asking the court to continue the hearing.
- Either person has a good reason for needing a new hearing date. (The court may grant a request to continue the hearing on a showing of "good cause.")

What does Form CH-115 do?

Use Form [CH-115](#) to ask the court to “continue” the hearing. If the court continues the hearing and a *Temporary Restraining Order* (TRO, Form [CH-110](#)) was issued, the TRO will be extended until the end of the new hearing unless the court decides to modify or terminate it.

- “Continue” the hearing means to give you a new hearing date.
- “Extend” means to keep any temporary orders in effect until the new hearing date.

Follow these steps:

- Fill out all of Form [CH-115](#).
- Fill out items ① through ④ on Form [CH-116](#), *Order on Request to Continue Hearing*.
- 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 continue the hearing.
- If the judge signs Form [CH-116](#), the court will give you a new hearing date. If the judge did NOT sign the form, you should go to the hearing at the date, time, and location that is shown on Form CH-109.
- Next, file both Forms CH-115 and CH-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to court on the hearing date.
- The other party must be served a copy of the court papers as described in item ⑦ on Form [CH-116](#).
- 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 Form [CH-200](#), *Proof of Personal Service*. If service was by mail, use Form CH-250, *Proof of Service of Response by Mail*. Make two copies of the completed forms.
- File the completed and signed *Proof of Service* form with the clerk's office before the hearing.
- If the court continues the hearing date and extends the TRO to the date of the new hearing, the clerk will send the TRO to law enforcement. It will be entered into a statewide computer system that lets police know about the order so that it can be enforced.

Go to the hearing.

- Take a copy of all of your papers and the original *Proof of Service* with you to the court hearing.
- If you are the **Person Seeking Protection** and you do not go to the hearing, the *Temporary Restraining Order* will expire on the date and time of the hearing. If you are the **Person to Be Restrained** and you do not go to the hearing, the court can still make orders against you that can last for up to five years.

Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

CH-115

Request to Continue Court Hearing

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

1 Party Seeking Continuance

a. Full Name: _____

I am the: Party seeking protection.
 Party from whom protection is sought.

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 e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

2 Other Party

Full Name: _____

3 Request to Continue Hearing

a. I ask the court to continue the hearing currently scheduled for (date): _____

b. I request that the hearing be continued because (check any that apply):

- (1) The party from whom protection is sought could not be served before the hearing date.
- (2) I am the party from whom protection is sought and this is my first request to continue the hearing date.
- (3) I need more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 3b(4)

- c. (1) This is my first request for a continuance.
- (2) The hearing has previously been continued _____ times.

This is not a Court Order.

4 Extension of Temporary Restraining Order

a. A *Temporary Restraining Order* (Form CH-110) was issued on (date): _____
Please attach a copy of the order if you have one.

b. **Notice: If the hearing date is continued, the *Temporary Restraining Order* will remain in effect until the end of the new hearing unless otherwise ordered by the court.**

Date: _____

Lawyer's name, if you have one



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

CH-116

Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Complete items ①, ②, ③, and ④a. The court will fill out the rest of the form.

① Person Asking for Protection

Full Name: _____

② Person From Whom Protection is Sought

Full Name: _____

③ Person Seeking Continuance

I am the: person in ① person in ②

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

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.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ E-Mail: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

④ Reason for the Continuance

a. The hearing currently set for (date): _____ is rescheduled to the date, time, and location in ⑤.

b. The continuance is needed because:

- (1) The person in ② was not served before the current hearing date.
- (2) The person in ② asked for a first continuance of the hearing.
- (3) The person in ② asked for more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 4b(4)

c. The court orders a continuance in its discretion.

⑤ Order for Continuance and Notice of New Hearing

The court hearing on the Request for Civil Harassment Restraining Orders (Form CH-100) is continued and rescheduled as follows:

New Hearing Date	→	Date: _____ Time: _____	Name and address of court if different from above:
		Dept.: _____ Room: _____	_____
The extended Temporary Restraining Order (Form CH-110) expires at the end of this hearing.			

This is a Court Order.



Case Number: **6 Extension of Temporary Restraining Order**

- a. No Temporary Restraining Order was issued in this case.
- b. Extension of the *Temporary Restraining Order* (TRO: Form CH-110) issued on (date): _____ until the new hearing date is:
- (1) GRANTED. There are no changes to the TRO except for the expiration date. The TRO remains in effect until the end of the hearing in **(5)**.
- (2) GRANTED AS MODIFIED. The Temporary Restraining Order is modified. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in **(5)**.
- (3) DENIED and the Temporary Restraining Order is TERMINATED for the reasons stated:
 below on Attachment 6b(3)

Warning and Notice to the Person in **(2)**

If **(6) b(1)**, or **b(2)** is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in **(5)**.

7 Service of Order

- a. No further service of this Order is required because both parties were present at the initial hearing date in item 4a, and both were given a signed copy of this Order.
- b. The court granted the **Person in (1)**'s request to continue the hearing date. A copy of this Order must be served on the **Person in (2)** at least ____ days before the hearing in **(5)**.
- (1) All other documents requesting civil harassment restraining orders as shown in Form CH-109, *Notice of Court Hearing* item **(5)** must also be served on the Person in **(2)**.
- (2) The *Temporary Restraining Order* (Form CH-110) has been modified and must be served on the Person in **(2)**.
- (3) A copy of the *Temporary Restraining Order* must NOT be served because extension of the order is denied in item 6b(3).
- c. The court granted the **Person in (2)**'s request to continue the hearing date. A copy of this Order must be served on the **Person in (1)** at least ____ days before the hearing in **(5)**. A copy of the *Temporary Restraining Order* (Form CH-110) must be served if it was modified by the court in item 6b(2).
- d. All documents must be personally served unless otherwise specified below.

This is a Court Order.

Case Number: **8 No Fee to Serve (Notify) Restrained Person** **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. The person requesting the Order is entitled to a fee waiver.

9 CLETS Entry

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Order System (CARPOS) via the California Law Enforcement Telecommunications System (CLETS).

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 <http://www.courts.ca.gov/forms.htm> for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

*(Clerk will fill out this part.)***—Clerk's Certificate—**

Clerk's Certificate I certify that this *Order on Request to Continue Hearing* 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.

DRAFT
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 Party Seeking Continuance

a. Full Name: _____

- I am the: Elder or dependent adult seeking protection.
 Person requesting protection for the elder or dependent adult (*person named in item 3 of form EA-100*):
 Party from whom protection is sought.

Lawyer for person named above (*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 e-mail.*):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

2 Other Party

Full Name: _____

3 Request to Continue Hearing

a. I ask the court to continue the hearing currently scheduled for (*date*): _____

b. I request that the hearing be continued because (*check any that apply*):

- (1) The party from whom protection is sought could not be served before the hearing date.
(2) I am the party from whom protection is sought and this is my first request to continue the hearing date.
(3) I need more time to hire a lawyer or prepare a response.
(4) Other good cause as stated: below on Attachment 3b(4)

- c. (1) This is my first request for a continuance.
(2) The hearing has previously been continued _____ times.

This is not a Court Order.

4 Extension of Temporary Restraining Order

a. A *Temporary Restraining Order* (Form EA-110) was issued on (date): _____
Please attach a copy of the order if you have one.

b. **Notice: If the hearing date is continued, the *Temporary Restraining Order* will remain in effect until the end of the new hearing unless otherwise ordered by the court.**

Date: _____

Lawyer's name, if you have one

▶ _____
Lawyer'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 your name

▶ _____
Sign your name

EA-115-INFO How to Ask for a New Hearing Date

You may need to ask for a new hearing date if:

- You are the **Person Asking for Protection** and are unable to have form EA-109, *Notice of Court Hearing*, and other papers served in time before the hearing date.
- You are the **Person to Be Restrained**, and this is your first time asking the court to continue the hearing.
- Either person has a good reason for needing a new hearing date. (The court may grant a request to continue the hearing on a showing of "good cause.")

What does Form EA-115 do?

Use Form [EA-115](#) to ask the court to “continue” the hearing. If the court continues the hearing and a *Temporary Restraining Order* (TRO, Form [EA-110](#)) was issued, the TRO will be extended until the end of the new hearing unless the court decides to modify or terminate it.

- “Continue” the hearing means to give you a new hearing date.
- “Extend” means to keep any temporary orders in effect until the new hearing date.

Follow these steps:

- Fill out all of Form [EA-115](#).
- Fill out items ① through ④a on Form [EA-116](#), *Order on Request to Continue Hearing*.
- 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 continue the hearing.
- If the judge signs Form [EA-116](#), the court will give you a new hearing date. If the judge did NOT sign the form, you should go to the hearing at the date, time, and location that is shown on Form EA-109.
- Next, file both Forms EA-115 and EA-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to court on the hearing date.
- The other party must be served a copy of the court papers as described in item ⑦ on Form [EA-116](#).
- 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 Form [EA-200](#), *Proof of Personal Service*. If service was by mail, use Form EA-250, *Proof of Service of Response by Mail*. Make two copies of the completed forms.
- File the completed and signed *Proof of Service* form with the clerk's office before the hearing.
- If the court continues the hearing date and extends the TRO to the date of the new hearing, the clerk will send the TRO to law enforcement. It will be entered into a statewide computer system that lets police know about the order so that it can be enforced.

Go to the hearing.

- Take a copy of all of your papers and the original *Proof of Service* with you to the court hearing.
- If you are the **Person Seeking Protection** and you do not go to the hearing, the *Temporary Restraining Order* will expire on the date and time of the hearing. If you are the **Person to Be Restrained** and you do not go to the hearing, the court can still make orders against you that can last for up to five years.

Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

EA-116

Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Complete items ①, ②, ③, and ④a. The court will fill out the rest of the form.

① Person Asking for Protection

Full Name: _____

② Person From Whom Protection is Sought

Full Name: _____

③ Person Seeking Continuance

I am the: person in ① person in ②

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

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.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ E-Mail: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

④ Reason for the Continuance

a. The hearing currently set for (date): _____ is rescheduled to the date, time, and location in ⑤.

b. The continuance is needed because:

- (1) The person in ② was not served before the current hearing date.
- (2) The person in ② asked for a first continuance of the hearing.
- (3) The person in ② asked for more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 4b(4)

c. The court orders a continuance in its discretion.

⑤ Order for Continuance and Notice of New Hearing

The court hearing on the Request for Elder or Dependent Adult Abuse Restraining Orders (Form EA-100) is continued and rescheduled as follows:

New Hearing Date	→	Date: _____ Time: _____	Name and address of court if different from above:
		Dept.: _____ Room: _____	_____
The extended Temporary Restraining Order (Form EA-110) expires at the end of this hearing.			

This is a Court Order.



Case Number: _____

6 Extension of Temporary Restraining Order

- a. No Temporary Restraining Order was issued in this case.
- b. Extension of the *Temporary Restraining Order* (TRO: Form CH-110) issued on (date): _____ until the new hearing date is:
- (1) GRANTED. There are no changes to the TRO except for the expiration date. The TRO remains in effect until the end of the hearing in (5) .
- (2) GRANTED AS MODIFIED. The Temporary Restraining Order is modified. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in (5) .
- (3) DENIED and the Temporary Restraining Order is TERMINATED for the reasons stated:
 below on Attachment 6c(3)

Warning and Notice to the Person in (2)

If (6) b(1) or b(2) is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in (5) .

7 Service of Order

- a. No further service of this Order is required because both parties were present at the initial hearing date in item 4a, and both were given a signed copy of this Order.
- b. The court granted the **Person in (1)**'s request to continue the hearing date. A copy of this Order must be served on the **Person in (2)** at least ____ days before the hearing in (5) .
- (1) All other documents requesting elder or dependent adult abuse restraining orders as shown in Form EA-109, *Notice of Court Hearing* item (5) must also be served on the Person in (2) .
- (2) The *Temporary Restraining Order* (Form EA-110) has been modified and must be served on the Person in (2) .
- (3) A copy of the *Temporary Restraining Order* must NOT be served because extension of the order is denied in item 6b(3).
- c. The court granted the **Person in (2)**'s request to continue the hearing date. A copy of this Order must be served on the **Person in (1)** at least ____ days before the hearing in (5) . A copy of the *Temporary Restraining Order* (Form EA-110) must be served if it was modified by the court in item 6b(2).
- d. All documents must be personally served unless otherwise specified below.

This is a Court Order.

Case Number: **8 No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this Order, he or she will do it for free.

9 CLETS Entry

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Order System (CARPOS) via the California Law Enforcement Telecommunications System (CLETS).

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 <http://www.courts.ca.gov/forms.htm> for *Request for Accommodations by Persons with Disabilities and Response* (Form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate I certify that this *Order on Request to Continue Hearing* 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.

DRAFT

**NOT APPROVED BY THE
JUDICIAL COUNCIL**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Party Seeking Continuance

a. Full Name: _____

I am the: Petitioner
 Respondent

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 e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

2 Other Party

Full Name: _____

3 Request to Continue Hearing

a. I ask the court to continue the hearing currently scheduled for (date): _____

b. I request that the hearing be continued because (check any that apply):

- (1) The Respondent could not be served before the hearing date.
- (2) I am the Respondent, and this is my first request to continue the hearing date.
- (3) I need more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 3b(4)

- c. (1) This is my first request for a continuance.
- (2) The hearing has previously been continued _____ times.

This is not a Court Order.

4 Extension of Temporary Restraining Order

a. A *Temporary Restraining Order* (Form SV-110) was issued on (date): _____
Please attach a copy of the order if you have one.

b. **Notice: If the hearing date is continued, the *Temporary Restraining Order* will remain in effect until the end of the new hearing unless otherwise ordered by the court.**

Date: _____

Lawyer's name, if you have one



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

You may need to ask for a new hearing date if:

- You are the **Petitioner** and are unable to have form SV-109, *Notice of Court Hearing*, and other papers served in time before the hearing date.
- You are the **Respondent**, and this is your first time asking the court to continue the hearing.
- Either person has a good reason for needing a new hearing date. (The court may grant a request to continue the hearing on a showing of "good cause.")

What does form SV-115 do?

Use form [SV-115](#) to ask the court to “continue” the hearing. If the court continues the hearing and a *Temporary Restraining Order* (TRO, form [SV-110](#)) was issued, the TRO will be extended until the end of the new hearing unless the court decides to modify or terminate it.

- “Continue” the hearing means to give you a new hearing date.
- “Extend” means to keep any temporary orders in effect until the new hearing date.

Follow these steps:

- Fill out all of form [SV-115](#).
- Fill out items ① through ④a on form [SV-116](#), *Order on Request to Continue Hearing*.
- 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 continue the hearing.
- If the judge signs form [SV-116](#), the court will give you a new hearing date. If the judge did NOT sign the form, you should go to the hearing at the date, time, and location that is shown on form SV-109.
- Next, file both Forms SV-115 and SV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to court on the hearing date.
- The other party must be served a copy of the court papers as described in item ⑦ on form [SV-116](#).
- 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 form [SV-200](#), *Proof of Personal Service*. If service was by mail, use form SV-250, *Proof of Service of Response by Mail*. Make two copies of the completed forms.
- File the completed and signed *Proof of Service* form with the clerk's office before the hearing.
- If the court continues the hearing date and extends the TRO to the date of the new hearing, the clerk will send the TRO to law enforcement. It will be entered into a statewide computer system that lets police know about the order so that it can be enforced.

Go to the hearing.

- Take a copy of all of your papers and the original *Proof of Service* with you to the court hearing.
- If you are the **Petitioner** and you do not go to the hearing, the *Temporary Restraining Order* will expire at the end of the hearing. If you are the **Respondent** and you do not go to the hearing, the court can still make orders against you that can last for up to three years.

Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

SV-116

Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Complete items ①, ②, ③, and ④ a. The court will fill out the rest of the form.

① **Petitioner (Educational Institution or Officer)**
Full Name: _____

② **Respondent**
Full Name: _____

③ **Person Seeking Continuance**
I am the: Petitioner Respondent
Your Lawyer (if you have one for this case):
Name: _____ State Bar No.: _____
Firm Name: _____

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.)
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

E-Mail: _____

④ Reason for the Continuance

- a. The hearing currently set for (date): _____ is rescheduled to the date, time, and location in ⑤.
- b. The continuance is needed because:
 - (1) The Respondent was not served before the current hearing date.
 - (2) The Respondent asked for a first continuance of the hearing.
 - (3) The Respondent asked for more time to hire a lawyer or prepare a response.
 - (4) Other good cause as stated: below on Attachment 4b(4)

c. The court orders a continuance in its discretion.

⑤ Order for Continuance and Notice of New Hearing

The court hearing on the Request for Private Postsecondary School Violence Restraining Orders (Form SV-100) is continued and rescheduled as follows:

New Hearing Date	→	Date: _____ Time: _____ Dept.: _____ Room: _____	Name and address of court if different from above: _____ _____
The extended <i>Temporary Restraining Order</i> (Form SV-110) expires at the end of this hearing.			

This is a Court Order.



Case Number: **6 Extension of Temporary Restraining Order**

- a. No Temporary Restraining Order was issued in this case.
- b. Extension of the *Temporary Restraining Order* (TRO: Form SV-110) issued on (date): _____ until the new hearing date is:
- (1) GRANTED. There are no changes to the TRO except for the expiration date. The TRO remains in effect until the end of the hearing in (5).
- (2) GRANTED AS MODIFIED. The Temporary Restraining Order is modified. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in (5).
- (3) DENIED and the Temporary Restraining Order is TERMINATED for the reasons stated:
 below on Attachment 5b(3)

Warning and Notice to the Respondent

If (6) b(1) or b(2) is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in (5).

7 Service of Order

- a. No further service of this Order is required because both parties were present at the initial hearing date in item 4a, and both were given a signed copy of this Order.
- b. The court granted the **Petitioner's** request to continue the hearing date. A copy of this Order must be served on the **Respondent** at least ____ days before the hearing in (5).
- (1) All other documents requesting private postsecondary school violence restraining orders as shown in form SV-109, *Notice of Court Hearing* item (5) must also be served on the Respondent.
- (2) The *Temporary Restraining Order* (form SV-110) has been modified and must be served on the Respondent.
- (3) A copy of the *Temporary Restraining Order* must NOT be served because extension of the order is denied in item 6b(3).
- c. The court granted the **Respondent's** request to continue the hearing date. A copy of this Order must be served on the **Petitioner** at least ____ days before the hearing in (5). A copy of the *Temporary Restraining Order* (form SV-110) must be served if it was modified by the court in item 6b(2).
- d. All documents must be personally served unless otherwise specified below.

This is a Court Order.

Case Number:

8 No Fee to Serve (Notify) Respondent **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
 b. The person requesting the Order is entitled to a fee waiver.

9 CLETS Entry

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Order System (CARPOS) via the California Law Enforcement Telecommunications System (CLETS).

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 <http://www.courts.ca.gov/forms.htm> for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate I certify that this *Order on Request to Continue Hearing* 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.

DRAFT

**NOT APPROVED BY THE
JUDICIAL COUNCIL**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Party Seeking Continuance

a. Full Name: _____

I am the: Petitioner
 Respondent

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 e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

2 Other Party

Full Name: _____

3 Request to Continue Hearing

a. I ask the court to continue the hearing currently scheduled for (date): _____

b. I request that the hearing be continued because (check any that apply):

- (1) The Respondent could not be served before the hearing date.
- (2) I am the Respondent, and this is my first request to continue the hearing date.
- (3) I need more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 3b(4)

- c. (1) This is my first request for a continuance.
- (2) The hearing has previously been continued _____ times.

This is not a Court Order.

4 Extension of Temporary Restraining Order

a. A *Temporary Restraining Order* (Form WV-110) was issued on (*date*): _____

Please attach a copy of the order if you have one.

b. **Notice: If the hearing date is continued, the *Temporary Restraining Order* will remain in effect until the end of the new hearing unless otherwise ordered by the court.**

Date: _____

Lawyer's name, if you have one



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

You may need to ask for a new hearing date if:

- You are the **Petitioner** and are unable to have form WV-109, *Notice of Court Hearing*, and other papers served in time before the hearing date.
- You are the **Respondent**, and this is your first time asking the court to continue the hearing.
- Either person has a good reason for needing a new hearing date. (The court may grant a request to continue the hearing on a showing of "good cause.")

What does form WV-115 do?

Use form [WV-115](#) to ask the court to “continue” the hearing. If the court continues the hearing and a *Temporary Restraining Order* (TRO, form [WV-110](#)) was issued, the TRO will be extended until the end of the new hearing unless the court decides to modify or terminate it.

- “Continue” the hearing means to give you a new hearing date.
- “Extend” means to keep any temporary orders in effect until the new hearing date.

Follow these steps:

- Fill out all of form [WV-115](#).
- Fill out items ① through ④ a on form [WV-116](#), *Order on Request to Continue Hearing*.
- 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 continue the hearing.
- If the judge signs form [WV-116](#), the court will give you a new hearing date. If the judge did NOT sign the form, you should go to the hearing at the date, time, and location that is shown on form WV-109.
- Next, file both forms WV-115 and WV-116 with the clerk. The clerk will make up to three file-stamped copies for you. Keep at least one copy to bring to court on the hearing date.
- The other party must be served a copy of the court papers as described in item ⑦ on form [WV-116](#).
- 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 form [WV-200](#), *Proof of Personal Service*. If service was by mail, use form WV-250, *Proof of Service of Response by Mail*. Make two copies of the completed forms.
- File the completed and signed *Proof of Service* form with the clerk's office before the hearing.
- If the court continues the hearing date and extends the TRO to the date of the new hearing, the clerk will send the TRO to law enforcement. It will be entered into a statewide computer system that lets police know about the order so that it can be enforced.

Go to the hearing.

- Take a copy of all of your papers and the original *Proof of Service* with you to the court hearing.
- If you are the **Petitioner** and you do not go to the hearing, the *Temporary Restraining Order* will expire at the end of the hearing. If you are the **Respondent** and you do not go to the hearing, the court can still make orders against you that can last for up to three years.

Need help?

Ask the court clerk about free or low-cost legal help that may be available in your county.

WV-116

Order on Request to Continue Hearing

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Complete items ①, ②, ③, and ④ a. The court will fill out the rest of the form.

① Petitioner (Employer)

Full Name: _____

② Respondent

Full Name: _____

③ Person Seeking Continuance

I am the: Petitioner Respondent

Your Lawyer (if you have one for this case):

Name: _____ State Bar No.: _____

Firm Name: _____

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.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ E-Mail: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in case number:

Case Number: _____

④ Reason for the Continuance

a. The hearing currently set for (date): _____ is rescheduled to the date, time, and location in ⑤.

b. The continuance is needed because:

- (1) The Respondent was not served before the current hearing date.
- (2) The Respondent asked for a first continuance of the hearing.
- (3) The Respondent asked for more time to hire a lawyer or prepare a response.
- (4) Other good cause as stated: below on Attachment 4b(4)

c. The court orders a continuance in its discretion.

⑤ Order for Continuance and Notice of New Hearing

The court hearing on the *Request for Workplace Violence Restraining Orders* (Form WV-100) is continued and rescheduled as follows:

New Hearing Date	→	Date: _____ Time: _____	Name and address of court if different from above:
		Dept.: _____ Room: _____	_____
The extended <i>Temporary Restraining Order</i> (Form WV-110) expires at the end of this hearing.			

This is a Court Order.



Case Number: **6 Extension of Temporary Restraining Order**

- a. No Temporary Restraining Order was issued in this case.
- b. Extension of the *Temporary Restraining Order* (TRO: Form SV-110) issued on (date): _____ until the new hearing date is:
- (1) GRANTED. There are no changes to the TRO except for the expiration date. The TRO remains in effect until the end of the hearing in **(5)**.
- (2) GRANTED AS MODIFIED. The Temporary Restraining Order is modified. See the attached modified order. Any orders on the attached form remain in effect until the end of the hearing in **(5)**.
- (3) DENIED and the Temporary Restraining Order is TERMINATED for the reasons stated:
 below on Attachment 5b(3)

Warning and Notice to the Respondent

If **(6)b(1)** or **b(2)** is checked, you must continue to obey the Temporary Restraining Order until it expires at the end of the hearing scheduled in **(5)**.

7 Service of Order

- a. No further service of this Order is required because both parties were present at the initial hearing date in item 4a, and both were given a signed copy of this Order.
- b. The court granted the **Petitioner's** request to continue the hearing date. A copy of this Order must be served on the **Respondent** at least ____ days before the hearing in **(5)**.
- (1) All other documents requesting workplace violence restraining orders as shown in Form SV-109, *Notice of Court Hearing* item **(5)** must also be served on the Respondent.
- (2) The *Temporary Restraining Order* (Form SV-110) has been modified and must be served on the Respondent.
- (3) A copy of the *Temporary Restraining Order* must NOT be served because extension of the order is denied in item 6b(3).
- c. The court granted the **Respondent's** request to continue the hearing date. A copy of this Order must be served on the **Petitioner** at least ____ days before the hearing in **(5)**. A copy of the *Temporary Restraining Order* (Form WV-110) must be served if it was modified by the court in item 6b(2).
- d. All documents must be personally served unless otherwise specified below.

This is a Court Order.

Case Number:

8 No Fee to Serve (Notify) Respondent **Ordered** **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

- a. The Order is based on unlawful violence, a credible threat of violence, or stalking.
 b. The person requesting the Order is entitled to a fee waiver.

9 CLETS Entry

The court or its designee will transmit this form within one business day to law enforcement personnel for entry into the California Restraining and Protective Order System (CARPOS) via the California Law Enforcement Telecommunications System (CLETS).

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 <http://www.courts.ca.gov/forms.htm> for *Request for Accommodations by Persons with Disabilities and Response* (form MC-410). (Civ. Code, § 54.8.)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate I certify that this *Order on Request to Continue Hearing* is a true and correct copy of the original on file in the court.
[seal]

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

JuvFamily and Juvenile Law Advisory Committee

Annual Agenda—2016

Approved by RUPRO:

(Reapproved by E&P:)

I. ADVISORY BODY INFORMATION

Chair:	Hon. Jerilyn Borack and Hon. Mark A. Juhas, Co-chairs
Staff:	Ms. Audrey Fancy and Ms. Julia Weber, Co-counsel; Ms.Carolynn Bernabe, Senior Administrative Coordinator, Center for Families, Children & the Courts
Advisory Body's Charge: Makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children. [Rule 10.43]	
Advisory Body's Membership: 34 members with 1 appellate court justice; 18 trial court judicial officers; 1 judicial administrator; 1 child custody mediator; 3 lawyers whose primary area of practice is family law; 1 lawyer specializing in governmental child support; 1 domestic violence prevention advocate; 1 chief probation officer; 1 child welfare director; 1 court appointed special advocate director; 1 county counsel assigned to juvenile dependency; 1 district attorney assigned to juvenile delinquency; 1 public-interest children's rights lawyer; 2 lawyer from public or private defender's office whose primary area is juvenile law.	
Subgroups/Working Groups¹: The following have been established with approval from, or direction by, the Judicial Council or its internal advisory bodies (Rules and Project Committee or Executive and Planning): <ul style="list-style-type: none">• Protective Order Forms Working Group (POWG)• Violence Against Women Education Program (VAWEP)²• Joint Juvenile Competency Issues Working Group• Child Support Commissioner and Family Law Facilitator Program Allocation Methodology Joint Subcommittee• Juvenile Dependency: Court-Appointed-Counsel Funding Allocation Methodology Joint Subcommittee	

¹ California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

² On August 22, 2014, the Judicial Council approved a recommendation from the Family and Juvenile Law Advisory Committee that VAWEP become a standing subcommittee of the Family and Juvenile Law Advisory Committee. The composition of VAWEP has been guided by grant requirements and advisory committee chair review. A copy of the council report is available here: <http://www.courts.ca.gov/documents/jc-20140822-itemE.pdf>

Advisory Body's Key Objectives for 2016:

1. Provide recommendations to the Judicial Council on funding and allocation methods for specified legislatively mandated court-related programs.
2. Provide recommendations to the Judicial Council for changes to or new statewide rules and forms to enable the council to fulfill legislative mandates.
3. Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law.

II. ADVISORY BODY PROJECTS

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
1.	<p>As directed by the Judicial Council, the Office of Governmental Affairs provided the committee with the following legislative proposals that may have an impact on family and juvenile law issues within the advisory committee's purview. Based on these referrals, the committee will review the legislation and propose rules and forms as may be appropriate for the council's consideration.</p> <p><u>AB 217 (Maienschein) Juvenile law: hearings</u> <i>Chapter 36, Statutes of 2015</i> <u>Summary:</u> Requires a court to inform a minor of their right to address the court and participate in a hearing, if they so desire.</p>	1(a), (b), or (c)	<p>Judicial Council Direction: Committee charge under rule 10.43</p> <p>Origin of Project: Legislative mandate.</p> <p>Resources: Legal Services</p> <p>Key Objective Supported: 2, 3</p>	July 1, 2016 or January 1, 2017	Rules and forms, incorporating information in education and training programs, or information and analysis for council on why action on the council's part may or may not be necessary.

³ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

⁴ For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

<p><u>AB 260 (Lopez) Foster care: parenting youth</u> <i>Chapter 36, Statutes of 2015</i> <u>Summary:</u> Among other things, requires that a minor parent's placement history shall not be the sole reason for declaring a child a dependent of the court.</p> <p><u>AB 365 (Garcia, Christina) Child custody proceedings: testimony by electronic means</u> <i>Chapter 69, Statutes of 2015</i> <u>Summary:</u> If a party's participation in a child custody proceeding is impacted by an Immigration and Customs Enforcement detention or deportation, the court shall allow the party to present evidence and testimony, or participate in a child custody mediation, by electronic means, if such means are available to the court and will not impact the due process rights of other parties.</p> <p><u>AB 424 (Gaines) Court appointed child advocates: wards</u> <i>Chapter 71, Statutes of 2015</i> <u>Summary:</u> Expands the Court Appointed Special Advocate program to allow appointment of CASAs for any minor dependent, nonminor dependent, or ward who is subject to the jurisdiction of the juvenile court.</p> <p><u>AB 439 (Bloom) Protective orders: batterer's program</u> <i>Chapter 72, Statutes of 2015</i> <u>Summary:</u> Requires a restrained party ordered to participate in a batterer's program to register for the program by a specified deadline and to, at the time of enrollment, sign all necessary program consent forms for the program to release specified documents, including proof of enrollment, to the court and the protected party or his or her attorney.</p> <p><u>AB 494 (Maienschein) Restraining orders: protection of animals</u> <i>Chapter 401, Statutes of 2015</i></p>				
--	--	--	--	--

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p><u>Summary</u>: Allows a court to include granting to a protected party the exclusive care, possession, or control of an animal in a restraining or protective order, and allows a court to order a restrained party to stay away from and neither take nor harm an animal subject to the order.</p> <p><u>AB 536 (Bloom) Domestic violence: protective orders</u> <i>Chapter 73, Statutes of 2015</i> <u>Summary</u>: Requires each party seeking protection under the Domestic Violence Protection Act to present written evidence of abuse or domestic violence on an application for relief using a mandatory Judicial Council restraining order application form, and specifies that, for these purposes, written evidence of abuse or domestic violence in a responsive pleading does not satisfy the party’s obligation to present written evidence of abuse or domestic violence.</p> <p><u>AB 610 (Jones-Sawyer) Child support: suspension of support order</u> <i>Chapter 629, Statutes of 2015</i> <u>Summary</u>: Suspends a child support order by operation of law when an obligor is incarcerated or involuntarily institutionalized, unless the obligor has the means to pay support, or the obligor was incarcerated or involuntarily institutionalized for either an offense constituting domestic violence or the failure to pay child support.</p> <p><u>AB 666 (Stone) Juveniles: sealing of records</u> <i>Chapter 368, Statutes of 2015</i> <u>Summary</u>: When a juvenile record is sealed by the court, the court shall order the Department of Justice, any law enforcement</p>				

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>agencies, and the probation department to seal any records pertaining to the case. The court shall notify the subject of the order and his or her attorney that the records have been sealed. The bill exempts from this section any WIC §707(b) offenses committed after the minor turned 14 years old.</p> <p>Further limits future access to the sealed records to:</p> <ol style="list-style-type: none"> (1) Prosecutors or probation departments for the purpose of determining eligibility for deferred entry of judgement or supervision. (2) The court to verify prior jurisdictional status of a ward seeking to resume court jurisdiction under WIC §388. (3) If a new petition has been filed against the minor for a felony, probation departments, for the purpose of determining the minor's eligibility or suitability for treatment programs or services. (4) The person whose is the subject of the sealed records. (5) When there is a subsequent adjudication against the minor, by probation, the prosecuting attorney, minor's counsel, or the court for the purpose of aiding the court in finding an appropriate disposition for the minor. <p><u>AB 703 (Bloom) Juveniles: attorney qualifications</u> <i>Chapter 369, Statutes of 2015</i> <u>Summary:</u> Among other things, requires counsel appointed in delinquency proceedings to have sufficient education or experience to satisfy minimum education requirements to be established by the Judicial Council.</p> <p><u>AB 879 (Burke) Juveniles: court proceedings: notice</u> <i>Chapter 219, Statutes of 2015</i> <u>Summary:</u> Allows service of notice of hearings in specified dependency matters to be done by electronic mail, provided that</p>				

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>the county, court, and parties are all willing to accept service electronically.</p> <p><u>AB 989 (Cooper) Juveniles: sealing of records</u> <i>Chapter 375, Statutes of 2015</i> <u>Summary:</u> When a minor's records have been sealed and a new petition has been filed, limits access to the sealed records as follows: (1) Prosecutors or probation departments for the purpose of determining eligibility for deferred entry of judgement or supervision. (2) Probation departments, for the purpose of determining the minor's eligibility or suitability for treatment programs or services. (3) The court to verify prior jurisdictional status of a ward seeking to resume court jurisdiction under WIC §388. (4) Probation departments for the purpose of meeting Federal Title IV-E compliance.</p> <p><u>AB 1081 (Quirk) Protective orders</u> <i>Chapter 411, Statutes of 2015</i> <u>Summary:</u> Amends protective and restraining order statutes to allow either party to request a continuance of a hearing, and automatically extends temporary orders to the date of the new hearing, rather than having the temporary order lapse and be reissued.</p>				

AB 1407 (Atkins) Family law: protective orders: wireless telephone numbers

Chapter 415, Statutes of 2015

Summary: Allows a court, after a noticed hearing, to issue an order directing a wireless telephone service provider to transfer the billing responsibility and rights to a wireless telephone number or numbers to a requesting party.

AB 1519 (Committee on Judiciary) Judiciary omnibus: family support

Chapter 416, Statutes of 2015

Summary: Amends Family Code section 17400(a)(3) to provide that local child support agencies (1) are required to maintain original signed pleadings only for the time period stated in Government Code section 68152(a); and (2) may maintain original signed pleadings by way of an electronic copy in the Statewide Automated Child Support System. AB 1519 requires the Judicial Council to develop implementing rules by July 1, 2016.

SB 28 (Wieckowski) Spousal support factors: domestic violence

Chapter 137, Statutes of 2015

Summary: Includes a plea of nolo contendere as evidence of a history of domestic violence for the purposes of a court determining the amount and length of a spousal support order.

SB 68 (Liu) Minor or nonminor dependent parents: reunification services

Chapter 284, Statutes of 2015

Summary: Requires a court to take into consideration the particular concerns of a minor or nonminor dependent parent in making placement decisions. Authorizes a court to order continued reunification services for six additional months in order to assist a minor or nonminor dependent parent in regaining

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
	<p>custody if "significant and consistent progress in establishing a safe home for the child's return" is being made.</p> <p><u>SB 238 (Mitchell) Foster care: psychotropic medication</u> <i>Chapter 534, Statutes of 2015</i> <u>Summary:</u> Together with SB 319 and SB 484, recasts and updates the psychotropic medications are applied for, prescribed, and supervised in minors subject to the jurisdiction of the juvenile court. Among other things, SB 238 changes the way the Department of Social Services, Department of Health Care Services, and others send information to the court, and makes sure a minor and his or her advocate have a meaningful opportunity to participate in the process.</p> <p><u>SB 307 (Pavley) Restraining orders</u> <i>Chapter 60, Statutes of 2015</i> <u>Summary:</u> Extends the authority of a court to issue an order restraining contact by an offender with the victim of a crime for up to ten years regardless of whether the offender is subject to mandatory supervision.</p> <p><u>SB 504 (Lara) Court records: sealing</u> <i>Chapter 388, Statutes of 2015</i> <u>Summary:</u> (1) Limits the requirement to reimburse the court, county, or city for the cost of sealing records to those parties who request sealing and are 26 years of age or older. (2) Does not relieve an individual from satisfying a restitution order simply because his or her record of the case that led to the order is sealed. (3) Prohibits an outstanding restitution order or other court fines or fees from being considered in determining if a petitioner has</p>				

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
	<p>been rehabilitated or from being used as a basis to not seal a record.</p> <p><u>SB 594 (Wieckowski) Child custody</u> <i>Chapter 130, Statutes of 2015</i> <u>Summary:</u> Specifies that a child custody evaluation, investigation, or assessment, and any resulting report, may only be considered by the court if the evaluation, investigation, or assessment, and any resulting report, is conducted in accordance with the minimum requirements adopted by the Judicial Council, unless any variations from the requirements are based on errors that are nonsubstantive, inconsequential, or both.</p> <p><u>SB 646 (Jackson) Uniform Interstate Family Support Act</u> <i>Chapter 493, Statutes of 2015</i> <u>Summary:</u> Revises the Uniform Interstate Family Support Act (UIFSA), and identifies the Department of Child Support Services as the agency designated by the United States central authority, to comply with federal law and maintain state eligibility to receive federal funding for child support enforcement, under the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.</p>				

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
2.	<p><u>AB 1712 (Beall) Nonminor Dependents</u> <i>Chapter 846, Statutes of 2012</i> Develop rules and forms to implement the transfer provisions for nonminor dependents and to provide further guidance to youth seeking to reenter juvenile court jurisdiction as nonminor dependents consistent with the provisions of earlier legislation⁵ regarding the extension of juvenile court jurisdiction and foster care services to dependents and wards up to 21 years of age. Circulated for comment in Winter 2014 and deferred at the request of courts in Southern California.</p>	1(b)	Judicial Council Direction: Legislative Mandate Origin of Project: Legislature Resources: Key Objective Supported: 2	January 1, 2017	Rules, forms
3.	<p>Address sealing legislation from 2015, listed above, and previous legislation:</p> <p>2013</p> <p><u>AB 1006 (Yamada) Juvenile court records: sealing and destruction</u> <i>Chapter 269, Statutes of 2013</i> Directs Judicial Council to develop informational materials and a form to enable a former ward or individual for whom a petition was filed under Welfare and Institutions Code section 602, or any individual who had contact with a probation department under section 626, to petition the court for the sealing and destruction of juvenile records under section 781 and rule 5.830. Circulated for comment in Spring 2014 and deferred due to pending related legislation.</p>	1(b)	Judicial Council Direction: Legislative Mandate Origin of Project: Legislature Resources: Key Objective Supported: 2	July 1, 2016	Rules, forms

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
	<p>2014</p> <p><u>SB 1038 (Leno) Juveniles: dismissal of petition</u> <i>Chapter 249, Statutes of 2015</i> Removes the cap of 21 years old by which a court must dismiss a petition against a former ward of the court. Does not require the court to have jurisdiction over the former ward at the time of dismissal of a petition. Further requires a court to automatically seal the records of minors under specified circumstances, and grants limited access to such files without this access constituting "unsealing" of the records. Circulated for comment in Spring 2015 and deferred due to pending related legislation.</p>				
4.	<p>Juvenile Dependency: Commercially Sexually Exploited Children (CSEC) In 2014, SB 855 (Stats. 2014, ch. 29) established the new California Commercially Sexually Exploited Children (CSEC) Program within the California Department of Social Services (CDSS) to support prevention, intervention, services, and training to more effectively address CSEC in this state. The legislation also amended Welfare and Institutions Code section 300 to include section 300(b)(2), which specifically acknowledges that CSEC can come into the system through the juvenile dependency portal, recognizing CSEC as victims rather than perpetrators. This proposal would amend Form JV-121, which currently includes the allegations corresponding to section 300(b)(1), to additionally provide the basic statutory allegations from the new section 300(b)(2), which reads: "The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1</p>	1(b)	<p>Judicial Council Direction: Legislative Mandate</p> <p>Origin of Project: Legislature</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	July 1, 2016	Amended Forms

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.”				
5.	<p>SPR15-28 Special Immigrant Juvenile Status</p> <p>To enrich recommendations to the council and to avoid duplication of efforts, the committee will continue to collaborate with the Probate and Mental Health Advisory Committee and the CJER Governing Committee to implement Senate Bill 873, Assembly Bills 899 and 900 (Stats. 2015, ch 694), and any other federal and state legislation or judicial decision that affects the intersection of federal immigration law and California child welfare or child custody law. This collaboration may include development of rules and forms, educational events, informational materials, and other resources to aid judges and court staff as well as justice partners and court users.</p>	1(b)	<p>Judicial Council Direction: Legislative Mandate</p> <p>Origin of Project: Legislature SB 873</p> <p>Resources: Legal Services, CJER</p> <p>Key Objective Supported: 2, 3</p>	July 1, 2016 and ongoing	Rules, Forms
6.	<p>Update Form to Reflect Federal Poverty Guidelines</p> <p>Form JV-132 <i>Financial Declaration–Juvenile Dependency</i> contains figures based on the federal poverty guidelines; update form to reflect those guidelines when published by the federal government in early 2016.</p>	1(b)	<p>Judicial Council Direction: Statutory mandate and council delegation to the committee.</p> <p>Origin of Project: Statutory mandate</p> <p>Resources:</p>	Feb. 2016	Updated form

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 2		
7.	<p>Proposition 47 Monitor implementation of proposition enacted November 5, 2014, which [brief description of how it is part of Fam/Juv subject responsibilities] and assist the juvenile courts with any required implementation.</p>	1	<p>Judicial Council Direction: Statutory mandate and council delegation to the committee.</p> <p>Origin of Project: Statutory mandate</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	Ongoing	Rules, forms, or information and analysis for council on why action on the council's part may or may not be necessary.
8.	<p>Assembly Bill 1058 Child Support Program Funding Provide recommendations to the council for allocation of funding pursuant to Family Code sections 4252(b) and 17712.</p>	1	<p>Judicial Council Direction: Legislative mandate and council delegation to the committee.</p> <p>Origin of Project: Legislative mandate</p> <p>Resources: Finance office</p>	Ongoing	Council report with recommendations

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			1. Key Objective Supported: Provide recommendations to the Judicial Council on funding and allocation methods for specified legislatively mandated court-related programs.		
9.	<p>Access to Visitation Funding and Legislative Report Provide recommendations to the council for allocation of funding pursuant to Family Code section 3200. Additionally, the committee will provide the council with the statutorily mandated legislative report on the program due every other year.</p>	1	<p>Judicial Council Direction: Legislative mandate and council delegation to the committee.</p> <p>Resources: Judicial Council Finance office</p> <p>Origin of Project: Legislative mandate and Judicial Council direction</p>	Ongoing	Council report with recommendations

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 1		
10.	<p>Serve as statutorily mandated Advisory Committee to the Judicial Council for the Court Appointed Special Advocates (CASA) grants program (Welf. & Inst. Code, § 100 et seq.) Recommend annual funding to local programs pursuant to the methodology approved by the Judicial Council in August 2013.</p>	1	<p>Judicial Council Direction: Committee charge under CRC 10.43; Legislative mandate</p> <p>Origin of Project: Welf. & Inst. Code, § 100 et seq. and Judicial Council direction</p> <p>Resources: Judicial Council Finance office Key Objective Supported: 1</p>	Ongoing	Council report with recommendations
11.	<p>Blue Ribbon Commission on Children in Foster Care (BRC) recommendations Review and consider for action, when resources become available, the BRC recommendations related to court reform that have been ongoing, but have not yet been fully implemented because of significant budget challenges. Those recommendations broadly include: 1. Reducing caseloads for judicial officers, attorneys, and social workers;</p>	1	<p>Judicial Council Direction: Refer by the Judicial Council</p> <p>Origin of Project: Judicial Council</p> <p>Resources:</p>	Ongoing	

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>2. Ensuring a voice in court and meaningful hearings for participants;</p> <p>3. Ensuring adequately trained and resourced attorneys, social workers, and Court Appointed Special Advocates (CASA); and</p> <p>4. Establish and monitor data exchange standards and information between the courts and child welfare agencies and those to be monitored by the Judicial Council Technology Committee, in consultation with the Family and Juvenile Advisory Committee, develop technical and operational administration standards for interfacing court case management systems and state justice partner information systems.</p>		Key Objective Supported: 1		
12.	<p>Domestic Violence Provide recommendations to the council on statewide judicial branch domestic violence issues in the area of family and juvenile law, including projects referred from the work of the Domestic Violence Practice and Procedure Task Force and the Violence Against Women Education Program (VAWEP). Serve as lead committee for Protective Orders Working Group (POWG).</p>	1	Judicial Council Direction: Referral of projects from the Domestic Violence Practice and Procedure Task Force	Ongoing	Coordination of activities in subject matter area to avoid duplication of resources and potential conflict in rules, forms, and other areas
13.	<p>Legislation Review and recommend positions on legislation related to family and juvenile law matters.</p>	1	Judicial Council Direction: Committee charge under CRC 10.43	Ongoing	Subject matter expertise provided to PCLC so that council may take appropriate action

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
14.	<p>Education Contribute to planning efforts in support of family and juvenile law judicial branch education.</p>	1	Judicial Council Direction: Committee charge under CRC 10.43	Ongoing	Subject matter expertise provided to CFCC, Education Division, and CJER Governing Committee so that content of programs can be coordinated across the branch
15.	<p>SPR15-16 Family Law: Revise FL-300 and companion forms Propose revisions to forms to respond to statutory changes and requests from litigants and court professionals about new FL-300 and comply with new statutory requirements in Family Code section 6345(d) regarding providing a mechanism to allow parties to modify domestic violence restraining orders.</p>	1(b)	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Legislative mandate Resources: CFCC staff and members</p> <p>Key Objective Supported: 1</p>	July 1, 2016	Delayed effective date to 7/1/16 to help with implementation. Some forms moved to Winter 2016 since recent legislation mandates further changes to these same forms.
16.	<p>Review approval of training providers under 5.210, 5.225, 5.230, and 5.518. Training providers/courses are reviewed for compliance with these rules by Judicial Council staff, in consultation with the Family and Juvenile Law Advisory Committee.</p>	1	Judicial Council Direction: Judicial Council	Ongoing	Approve providers

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
			<p>Origin of Project: Judicial Council, result of name change (from AOC to JC) and review of delegations</p> <p>Resources: Judicial council Support Services, Legal Services,</p> <p>Key Objective Supported: 2</p>		
17.	<p>Serve as lead/subject matter resource for other advisory groups to avoid duplication of efforts and contribute to development of recommendations for council action. Such efforts may include providing family and juvenile law expertise and review to working groups, advisory committees, and subcommittees as needed.</p>	2	<p>Judicial Council Direction: Pursuant to the committee's charge under California Rules of Court, rule 10.43 "Makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children."</p>	Ongoing	Coordinated rules, forms, and legislative proposals

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Origin of Project: Respective advisory bodies</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>		
18.	<p>Rules Modernization Project Each advisory committee has been asked to include in their annual agenda for 2015 and 2016 an item providing for the drafting of proposed amendments to the California Rules of Court related to their subject matter areas. This effort would be undertaken in coordination with ITAC, which is responsible for developing and completing the overall rules modernization project.</p>	2(b)	<p>Judicial Council Direction: Pursuant to the committee’s charge under California Rules of Court, rule 10.43 “Makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children.”</p> <p>Origin of Project: CTAC Resources: Key Objective Supported: 2</p>	Jan. 1, 2018	Implementation of eight technical changes effective January 1, 2016. Identification of further rule or form changes or necessary legislation.

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
19.	<p>Juvenile Law: Intercounty Transfers Review requests under rule 5.610(g) to approve local collaborative agreements for alternative juvenile court transfer forms in lieu of JV-550.</p>	2(b)	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Judicial Council. Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts (October 25, 2013)</p> <p>Resources:</p> <p>Key Objective Supported: 2, 3</p>	Ongoing	Judicial Council report
20.	<p>FL-950, 955, 956 and 958 Limited Scope Representation; Rule 5.425 Amend to simplify the procedure for withdrawing when scope of work has been completed. The State Bar reports that many attorneys are unwilling to make court appearance because the procedure that we have adopted for withdrawal is too complicated. Most states have adopted a simpler process. Proposed changes would likely reduce the number of hearings regarding withdrawal of counsel and promote more representation.</p>	2	<p>Judicial Council Direction: Save resources for local courts</p> <p>Origin of Project: Request from State Bar and court-based self-help centers</p> <p>Resources:</p>	January 1, 2017	Rules, forms

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 2		
21.	<p>Amend JV-365, Termination of Juvenile Court Jurisdiction-Nonminor</p> <p>JV-365 is a mandatory Judicial Council form. This means that courts are required to use this form at the hearing to terminate jurisdiction for a youth who is 18 years of age or older. As a mandatory form, it is important that the form closely follow the legislative mandates. However, the Department of Social Services has requested that the Judicial Council consider amending this form to include other important, but not mandated, information to make the nonminors transition to their eligible benefits as seamless as possible</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Request from Department of Social Services</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	January 1, 2017	Amended form
22.	<p>Juvenile Law: Competency issues</p> <p>To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Collaborative Justice Courts Advisory Committee, and former members of the Mental Health Issues Implementation Task Force serving on other advisory bodies, to consider developing recommendations to the Judicial Council to: (1) revise rule 5.645 to define appropriate evaluation tools for use with juveniles, (2) amend legislative language to clarify the presumption of competency, (3) suggest other legislative changes necessary to improve the handling of cases where competency issues are raised, and (4) identify effective practices developed by local courts to address juvenile cases in which competency is a factor.</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Committee members and numerous suggestions from trial court judges in recent years.</p> <p>Resources: Collaborative</p>	January, 1 2017	Legislation

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/Outcome of Activity
			Justice Courts Advisory Committee Key Objective Supported: 2, 3		
23.	<p>Juvenile Law: Private guardianships. To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Probate and Mental Health Advisory Committee to explore further statutory revisions and/or changes to rules and forms to improve the handling of private guardianship cases when allegations of child abuse or neglect arise and cases may “crossover” from probate court into juvenile dependency court. The committees will evaluate and discuss the impact of recent legislation (AB 1757 (Stats. 2012, ch. 638)) relevant case law.</p>	2	<p>Judicial Council Direction:</p> <p>Origin of Project: Legislative mandate.</p> <p>Resources: LSO</p> <p>Key Objective Supported: 3</p>	Ongoing	
24.	<p>Court Coordination and Efficiencies Review promising practices that enhance coordination and increase efficient use of resources across case types involving families and children including review of unified court implementation possibilities, court coordination protocols, and methods for addressing legal mandates for domestic violence coordination so as to provide recommendations for education content and related policy efforts.</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Committee charge</p> <p>Resources: Key Objective Supported: 3</p>	Ongoing	Recommendations to groups and expertise will be offered to that request it

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
25.	<p>Indian Child Welfare Act Rules and Forms In conjunction with the Tribal Court-State Court Forum and Probate and Mental Health Advisory Committee monitor pending California Supreme Court cases <i>In re Abbigail A.</i> (2014) 173 Cal.Rptr.3d 191(3rd District) and <i>In re. Isaiah W.</i> (2014) 228 Cal.App.4th 981 (2nd District) for possible amendments to rules 5.482(c) and 5.484(c)(2) and status of proposed Federal Regulations for State Courts and Agencies in Indian Child Custody Proceedings governed by the Indian Child Welfare Act published for public comment in the federal register on March 20, 2015 (Vol. 80 FR No. 54 14880) for possible further amendments to ICWA rules and revisions to ICWA forms; concurrently amend <i>Notice of Child Custody Proceeding for Indian Child</i> (ICWA-030) in light of the <i>Abbigail A.</i> decision and <i>In re S.E.</i> (2013) 217 Cal. App. 4th 610 (2nd District).</p>	2	<p>Judicial Council Direction: Committee charge</p> <p>Origin of Project: Case law change</p> <p>Resources: Legal Services</p> <p>Key Objective Supported: 2</p>	Ongoing	
26.	<p>Consider Mental Health Issues Implementation Task Force Referrals Review and consider recommendations referred by the Judicial Council following the task force's final report to the council. Recommend appropriate action within the committee's purview.</p>	2	<p>Judicial Council Direction: As referred by the council</p> <p>Origin of Project:</p> <p>Judicial Council Resources: Legal Services, Criminal Justice Services office</p> <p>Key Objective Supported: 2, 3</p>	Ongoing	

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
27.	<p>Child Support Commissioner and Family Law Facilitator Program Allocation Methodology Joint Subcommittee: To enrich recommendations to the council and avoid duplication of effort, members of the committee will continue to collaborate with members of the Trial Court Budget Advisory Committee, the Workload Assessment Advisory Committee, and representatives from the California Department of Child Support Services to reconsider the allocation methodology developed in 1997 and report back at the February 2016 Judicial Council meeting.</p>	1	<p>Judicial Council Direction: Committee charge under rule 10.43</p> <p>Origin of Project: Judicial Council, April 17, 2015 meeting</p> <p>Resources: Finance, Office of Court Research, CFCC</p> <p>Key Objective Supported: 1</p>	February 2016	Report to the Judicial Council
28.	<p>Juvenile Dependency: Court-Appointed-Counsel Funding Allocation Methodology Joint Subcommittee: To enrich recommendations to the council and avoid duplication of effort, members of the committee will continue to collaborate with members of the Trial Court Budget Advisory Committee to review the workload model for court-appointed dependency counsel and report back no later than the April 2016 Judicial Council meeting.</p>	1	<p>Judicial Council Direction: Committee charge under rule 10.43</p> <p>Origin of Project: Judicial Council, April 17, 2015 meeting</p> <p>Resources: Finance, Office of Court Research</p>	April 1, 2016	Report to the Judicial Council

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 1, 3		
29.	<p>Family: Petition Forms Revise forms FL-100 and FL-110 to remove legally incorrect language (reference to “state” following Obergefell v. Hodges decision).</p>	1	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Legislative mandate</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	July 1, 2016	Revised forms
30.	<p>Adoption & Permanency Month Annual recognize the month of November as “Court Adoption and Permanency Month” in recognition of the need for permanency for youth under the court’s jurisdiction.</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Legislative mandate</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	Ongoing	Judicial Council resolution.

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p>Certification of Child Support Calculator Software Review and approve certifications of child support calculator software pursuant to Family Code section 3830 and California Rule of Court 5.275, including review of necessary changes as a result of Senate Bill 274 (parentage).</p>	Child support calculator software approved by the council in spring 2015.
2.	<p>FL-800 Joint Petition for Summary Dissolution Update to reflect change in cost of living per Family Code section 2400(b) as a technical change.</p>	Completed effective July 1, 2015.
3.	<p>Assembly Bill 1712: Minors and nonminor dependents (The Judicial Council was a cosponsor of Assembly Bill 12, the original legislation that authorized extended foster care for young adults ages 18 to 21, which was enacted in 2010, with most of its provisions effective January 1, 2012. The council has supported each of the subsequent cleanup bills to make changes to ensure smooth and effective implementation of Assembly Bill 12: Assembly Bill 212 in 2011, Assembly Bill 1712 in 2012, and Assembly Bill 787 (Stone; Stats. 2013, ch. 487) in 2013.)</p>	Completed effective January 1, 2016.
4.	<p>AB 1761 (Hall) Dependent children: placement (Ch. 765) Among other things, expands the time periods during which a County Department of Social Services must conduct a suitability assessment of a relative or nonrelative extended family member who requests temporary placement of a child who has been taken into temporary custody based on allegations of abuse or neglect, if the child is not released to a parent or guardian.</p>	Determined that RUPRO action was not needed.
5.	<p>AB 2454 (Quirk-Silva) Foster youth: nonminor dependents (Ch. 769) Allows a nonminor dependent who received either Kin-GAP aid or adoption assistance aid after turning 18 years old to petition for resumption of dependency jurisdiction.</p>	Completed effective January 1, 2016.

6.	<p>SPR15-16 Domestic Violence Law—Request to Modify or Terminate Domestic Violence Restraining Orders; Family Law—Changes to Request for Order Rules and Forms</p>	Completed effective January 1, 2016.
7.	<p>SPR15-17 Family Law/Domestic Violence: Amendments to Domestic Violence Form, “Get Ready for the Court Hearing” (DV-520-INFO) Propose amendments to correct information on the form and improve the availability of information for litigants, including self-represented litigants, on preparing for court hearings so as to reduce confusion and delay at court hearings.</p>	Completed effective January 1, 2016.
8.	<p>SPR 15-18 Juvenile Custody Orders Both family and juvenile courts have expressed frustration at the inability of the current Custody Order—Juvenile—Final Judgment (form JV-200) and Visitation Order—Juvenile (form JV-205) to capture the juvenile court’s findings and orders to the extent needed for compliance with the terms of the orders by the parties and for the enforcement or modification of the orders by the family court. The committee will propose and recommend circulation of revisions to the forms designed to reduce the number of enforcement and modification disputes filed in family court and to promote more efficient resolution of any such disputes that do arise by increasing the level of specificity solicited by the forms and incorporating language more familiar to the family court bench and bar.</p>	Completed effective January 1, 2016.
9.	<p>SPR15-19: AB 1701 (Patterson) Family law: adoption (Ch. 763) Among other things: Clarifies who can bring an action to declare the existence or nonexistence of a presumed parents-child relationship, specifying that the child's natural mother, rather than natural parent, may do so. Allows a single consolidated petition to terminate the parental rights to multiple children. Allows a court to permit prospective adoptive parents to appear in adoption proceedings by telephone, videoconference, or other remote electronic means.</p>	Completed effective January 1, 2016.

	<p>AB 2344 (Ammiano) Family law: parentage (Ch. 636) Among other things, creates a statutory form to establish the intent to be a legal parent or not when donating genetic material, and establishes the procedure for stepparent adoptions involving a spouse or partner who gave birth during the marriage or partnership, including exempting such adoptions from home visit and home study requirements.</p>	
10.	<p>SPR15-21 Juvenile Law: Extended Foster Care Amend Cal. Rules of Court, rules 5.555, 5.707, 5.812, and 5.906; revise forms JV-367, JV-464-INFO, JV-466, JV-470, and JV-472</p>	Completed effective January 1, 2016.
11.	<p>SPR15-22 Juvenile Delinquency: Documenting Wobbler Determination (JV-665) Provide subject matter expertise to the council by providing recommendations for change to form JV-665 suggested by the recent unpublished appellate decision <i>In re S.J.</i> (H040997).</p>	Completed effective January 1, 2016.
12.	<p>SPR1-23 Juvenile Law: Proceedings Before a Referee (rule 5.538) amending subdivision (b)(3) in the Spring 2015 cycle to conform to existing law and to prevent unnecessary appellate delays.</p>	Completed effective January 1, 2016.
13.	<p>SPR15-24 Juvenile Law: Detention Amend Cal. Rules of Court, rules 5.502, 5.760, and 5.790; revise forms JV-642 and JV-667</p>	Completed effective January 1, 2016.
14.	<p>SPR15-24: AB 388 (Chesbro) Juveniles (Ch. 760) Among other things, requires that there be reasons to continue holding a dual-status minor in custody in delinquency matters other than the child welfare department's inability to find an adequate placement or the minor's status as a dependent. AB 2607 (Skinner) Juveniles: detention (Ch. 615) Among other things, limits a court's authority to decide what is a reasonable ground for continued detention of a dual-status minor or nonminor, specifically eliminating administrative delays or a</p>	Completed effective January 1, 2016.

	probation officer's inability to find an appropriate placement for the minor or nonminor. Options for relief include releasing the minor or nonminor from custody. Requires periodic review of detention by the court.	
15.	SPR15-25 SB 977 (Liu) Juveniles (Ch. 219) Among other things, authorizes a court to place a child with a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.	Completed effective January 1, 2016.
16.	SPR15-26 SB 1099 (Steinberg) Dependent children: sibling visitation (Ch. 773) Among other things, requires a court to review the reasons for any suspension of sibling visitation with a minor or nonminor dependent.	Completed effective January 1, 2016.
17.	SPR15-27 SB 1460 (Committee on Human Services) Child welfare (Ch. 772) Among other things, requires a juvenile court to transfer a case file to a tribe having jurisdiction over a juvenile court case, and requires both the juvenile court and the tribe to document the finding of facts supporting jurisdiction over the child by the tribal court. Requires that a transfer order shall have precedence in scheduling, "and shall be heard by the court at the earliest possible moment after the order is filed." Further allows a child who has been removed from the custody of his or her parents to be placed with a resource family, as defined.	Completed effective January 1, 2016.

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups:

Subcommittee or working group name: **Protective Orders Forms Working Group** (includes representatives from the Civil and Small Claims Advisory Committee and Criminal Law Advisory Committee)

Purpose of subcommittee or working group: This working group was established at the direction of RUPRO to coordinate advisory committees' activities concerning protective orders that prevent domestic violence, civil harassment, elder and dependent abuse, and school place violence. The group assists in ensuring that there is consistency and uniformity, to the extent appropriate, in the different protective orders used in family, juvenile, civil, probate and criminal proceedings. The working group helps advisory committees and the Judicial Council by developing and updating Judicial Council protective order forms. It also reviews pending legislation and suggests new legislation to improve protective orders. It prepares proposals changes to the rules of court on protective orders, as necessary or appropriate. The Council has indicated that this advisory committee is to serve as lead for the Protective Orders Forms Working Group.

Number of advisory group members: 8

The Family and Juvenile Law Advisory Committee has 8 members who participate in the Protective Orders Working Group.

Number and description of additional members (not on this advisory group):

In addition to the 8 members from Family and Juvenile Law Advisory Committee, there are 6 members from other advisory groups on the Protective Orders Working Group: Civil and Small Claims (5), Criminal (1), and Domestic Violence Practice and Procedure Task Force (1). There is one former member of the Civil and Small Claims Advisory Committee (a retired commissioner) who is still participating in the group. There is a vacant position for a member of the Probate and Mental Health Advisory Committee.

Date formed: In 2007, at the direction of RUPRO. The formation of an interdisciplinary group to address protective order issues was originally suggested by the Chair of RUPRO in August 2006.

Number of meetings or how often the group meets:

Approximately 6-8 telephone meetings annually, depending on extent of business. (All meetings are by telephone.)

Ongoing or date work is expected to be completed:

Some core working group activities are ongoing—such as updating Judicial Council forms and reviewing legislation. Other activities—such as developing proposed Judicial Council-sponsored legislation—are projects of a specific duration.

Subcommittee or working group name: **Violence Against Women Education Program Committee**

Purpose of subcommittee or working group: Per Judicial Council referral, VAWEP will continue to provide guidance and evaluation of the VAWEP grant-funded projects and make recommendations to improve court practice and procedure in domestic violence cases as directed by the Family and Juvenile Law Advisory Committee and as approved in the advisory committee's annual agenda.

As indicated by the Judicial Council, VAWEF will request that the chair of the Criminal Law Advisory Committee select one or more members of that advisory committee to serve on VAWEF to help address questions relating to court practice and procedure in criminal domestic violence matters.

Date formed: 2003 as a committee; designated as a subcommittee by Judicial Council action, August 22, 2014.

Number of meetings or how often the group meets: 1 in person meeting anticipated

Ongoing or date work is expected to be completed: Ongoing.

Subcommittee or working group name: **Child Support Commissioner and Family Law Facilitator Program Allocation Methodology Joint Subcommittee**

Purpose of subcommittee or working group: To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Trial Court Budget Advisory Committee, the Workload Assessment Advisory Committee, and representatives from the California Department of Child Support Services to reconsider the allocation methodology developed in 1997 and report back at the February 2016 Judicial Council meeting.

Date formed: designated as a subcommittee by RUPRO and E&P June 1, 2015.

Number of meetings or how often the group meets: 1 in person meeting anticipated

Ongoing or date work is expected to be completed: February 2016

Subcommittee or working group name: **Juvenile Dependency: Court-Appointed-Counsel Funding Allocation Methodology Joint Subcommittee**

Purpose of subcommittee or working group: To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Trial Court Budget Advisory Committee to review the workload model for court-appointed dependency counsel and report back no later than the April 2016 Judicial Council meeting.

Date formed: designated as a subcommittee by RUPRO and E&P June 1, 2015.

Number of meetings or how often the group meets: 1 in person meeting anticipated

Ongoing or date work is expected to be completed: April 1, 2016

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (out of cycle)**

RUPRO Meeting: December 10 or 11, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

Approve Forms DV-900, DV-901, DV-805, DV-815 and Revise Forms DV-100, DV-110, DV-120, DV-120-INFO and DV-130

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Frances Ho, 415-865-7662, frances.ho@jud.ca.gov

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

Approved by RUPRO: This project falls under Item 1 of the approved agenda.

Project description from annual agenda: Provide subject matter expertise to the council by reviewing recent legislative changes directing Judicial Council action or as compiled by the Office of Governmental Affairs, and developing rules or form proposals as appropriate.

If requesting July 1 or out of cycle, explain:

Changes in the law resulting from the passage AB 536, AB 439 and AB 1407 require the Judicial Council to develop forms and rules necessary to effectuate the changes no later than July 1, 2016.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Domestic Violence Restraining Orders: New and Updated Forms to Reflect Recent Legislative Changes

Proposed Rules, Forms, Standards, or Statutes

Approve Forms DV-805, DV-815, DV-900, DV-901, and Revise Forms DV-100, DV-110, DV-120, DV-120-INFO and DV-130

Proposed by

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

Action Requested

Review and submit comments by January 22, 2016

Proposed Effective Date

July 1, 2016

Contact

Frances Ho, Attorney
Frances.ho@jud.ca.gov
(415) 865-7662

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve four forms and revise five forms used in Domestic Violence Prevention Act (DVPA) cases to implement changes made by Assembly Bill 439, Assembly Bill 536, and Assembly Bill 1407. The committee also recommends including an additional advisement on the restraining order forms to notify the restrained party of the possible immigration consequences for violating a restraining order.

Background

Assembly Bill 439

Assembly Bill 439 (2015 Stats., ch. 72) amends section 6343 of the Family Code effective January 1, 2016, with a delayed implementation date of July 1, 2016. Currently, a person ordered to complete a 52-week batterer intervention program within a Domestic Violence Prevention Act case is not required to submit proof of enrollment or attendance records to the court or protected person. In addition, the court and protected person do not have access to compliance information unless the person ordered to complete the program has given the program permission to release

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

this information. To provide the court and the protected person with access to information about the restrained person's compliance with court-ordered participation in a batterer intervention program, AB 439 amended section 6343 to require the restrained person to 1) enroll with a provider by a deadline ordered by the court or within 30 days of the court order if no specific deadline is ordered; 2) sign all necessary forms with the program to allow the court and protected person access to proof of enrollment, attendance records and completion and termination reports; and, 3) provide the court and protected person with the name, address and phone number of the program.

Assembly Bill 536

Assembly Bill 536 (2015 Stats., ch. 73) amends section 6305 of the Family Code effective January 1, 2016. Under existing law, the court may not issue mutual restraining orders unless certain findings and requirements are satisfied. One requirement is that both parties must submit written evidence of abuse or domestic violence. Sponsors of Assembly Bill 536 noted inconsistencies across courts in interpreting this requirement and due process concerns when the request was contained in responsive pleadings and not made on an application for restraining order form. Assembly Bill 536 clarifies that this requirement is only satisfied by presenting "an application for relief using a mandatory Judicial Council restraining order application form...written evidence of abuse or domestic violence in a responsive pleading does not satisfy the person's obligation to present written evidence of abuse or domestic violence." Assembly Bill 536 requires the Judicial Council, by July 1, 2016, to modify forms as necessary to provide notice of this new requirement.

Assembly Bill 1407

Assembly Bill 1407 (2015 Stats., ch. 415) adds section 6347 to the Family Code effective January 1, 2016, with a delayed implementation date of July 1, 2016. The Legislature has found that victims' access to their wireless telephone is important to ensure their safety and access to community resources. The Legislature cites data that shows an increase in cell phone ownership and an overall decrease in households with landlines. The Legislature also cites a recent survey conducted by National Public Radio of 72 shelters across the nation where 85% of the shelters reported serving victims whose abusers tracked them using GPS and 75% of the shelters reported serving victims whose abusers eavesdropped on phone calls using hidden mobile applications. To address these issues, the Legislature has added section 6347 to the Family Code to provide an applicant with the ability to control his/her own cell phone account when the account holder is the proposed restrained person. The new remedy allows the person seeking protection to ask the court to transfer the cell phone account to him/her and the cell phone account of any children in the requesting person's care. If granted, the court would issue an order, directing the cell phone service provider (provider), to transfer all billing responsibilities and rights associated with the telephone numbers to the protected person. The protected person would also have to provide his/her contact information to the provider, which the court must ensure remains confidential in court proceedings.

The Proposal

Assembly Bill 439

To implement changes made by Assembly Bill 439, the committee proposes to approve two new forms and revise one existing form, as follows:

NEW Form DV-805 (Proof of Enrollment for Batterer Intervention Program)

- This form would be used by the person ordered to complete a 52-week batterer intervention program to prove that he/she is enrolled in a program. This form would be filed with the court and should also be served on the protected person.
- The committee is seeking comment on whether this should be a mandatory or optional form.

NEW Form DV-815 (Batterer Intervention Program Progress Report)

- This form would be used by the person ordered to complete a 52-week batterer intervention program to prove compliance with court orders. The form would be completed by the program provider and filed with the court. The committee seeks to address the new requirements without creating a situation in which restrained parties or programs inadvertently release information in violation of an individual's privacy rights.
- The committee is seeking comment on whether this should be a mandatory or optional form.

Revise Form DV-130 (Restraining Order After Hearing- Order of Protection)

- At Item 22, include new requirements for restrained persons ordered to complete 52-week batterer intervention program.

Assembly Bill 536

To implement changes made by Assembly Bill 536, the committee proposes to revise two existing forms, as follows:

DV-120 (Response to Request for Domestic Violence Restraining Order)

- At Item 3, add text to refer litigants to Form DV-120-INFO for information on mutual restraining orders and Form DV-505-INFO for information on how to apply for a restraining order.

DV-120-INFO (How Can I Respond to a Request for a Domestic Violence Restraining Order)

- Add a new section entitled, *What if I Want a Restraining Order Against the Other Person?* This section will provide information on the legal requirements that must be satisfied in order for the court to issue mutual restraining orders and reference Form DV-505-INFO (*How Do I Ask For a Temporary Restraining Order?*).

Assembly Bill 1407

To implement changes made by Assembly Bill 1407, the committee proposes to approve two new forms and revise four existing forms, as follows:

NEW DV-900 (Order Transferring Cell Phone Account)

- This form would reflect the court's order regarding the transfer of cell phone account(s). The new statutory provision, effective July 1, 2016, requires a separate order be made by the court that is directed to the "wireless telephone service provider." This order must also include the contact information of the protected person (requesting person) which will be contained in a separate attachment that is not filed with the court (see Form DV-901, listed below).

NEW DV-901 (Attachment to Order Transferring Cell Phone Account)

- If an order of this kind is made, the cell phone service provider will need the protected person's contact information to process the transfer. This attachment form would be completed by the protected person and not filed with the court. This form and a copy of DV-901 would be sent by the protected person to the cell phone service provider. The statute requires that the order be served on "the wireless service provider's agent for service of process listed with the Secretary of State." Service providers are working to ensure that this information is available on the Secretary of State's website. The committee also proposes including links to the information on the Judicial Council's website.
- The committee is seeking comment on whether this should be a mandatory or optional form.

Revise Form DV-100 (Request for Order Domestic Violence Restraining Order)

- At item 15, add *Transfer of Cell Phone Account*, an additional remedy available to the requesting person (Note: The addition of this remedy will require adding a page to Form DV-100).
- At item 15, add language to notify the requesting party of some of the financial responsibilities that would result from an order of this kind. The committee is seeking comment on whether this notice is clear and accurate.
- At item 27, expand *Description of Abuse* to allow the requesting party space to list another incident of abuse.
- Provide more space in item 23, *Other Orders*, and item 28, *Other Persons to be Protected* (explanation of why additional protected parties should be included on restraining order).
- Items renumbered after item 15.

Revise Form DV-110 (Temporary Restraining Order)

- At item 15, add *Transfer of Cell Phone Account* as an order that may be made at a noticed hearing.
- Items renumbered after item 15.

Revise Form DV-130 (Restraining Order After Hearing)

- At item 15, add *Transfer of Cell Phone Account*, as an order that may be made by the court.
- Items renumbered after item 15.
- The new check boxes at the top of page 1, indicating whether the order is new (“Original”) or changed (“Amended”), and the additions to item 25 were circulated for public comment in Spring of 2015 and approved by the Judicial Council on October 27, 2015. Therefore, the committee is not seeking comment on these items.

Revise Form DV-120 (Response to Request for a Domestic Violence Restraining Order)

- At item 15, add *Transfer of Cell Phone Account*, as a possible request that the responding person would need to answer to.
- Items renumbered to reflect the addition of item 15.

Advisement of Potential Immigration Consequences

In response to suggestions made by judicial officers with experience in domestic violence cases, the committee proposes to include a notice to the restrained person that violation of a protective order may result in immigration consequences. A notice of this kind would help preserve the integrity of court orders by properly notifying the restrained person of the possible consequences of violating domestic violence restraining orders. The committee proposes to add language to DV-110, at page 5 and DV-130, at page 6. The committee notes that criminal courts are already required to make a similar advisement under California Penal Code section 1016.5, when accepting a plea.

Alternatives Considered

Assembly Bill 439

The committee considered not creating the two forms for proof of enrollment in and a progress report from a batterer intervention program. The committee decided that making these forms available could increase the likelihood of compliance by persons ordered to complete a 52-week batterer intervention program.

Assembly Bill 536

The committee considered including a notice on Form DV-120 (*Response to Request for Domestic Violence Restraining Order*) that would instruct litigants *not* to use the form to request a restraining order. However, the committee concluded that this notice would not be appropriate because the new requirement enacted by Assembly Bill 536 only applies in instances where the court is going to issue mutual restraining orders pursuant to Family Code section 6305. The court continues to have discretion under Family Code section 6300, to issue restraining orders, with or without notice, based on “affidavit or testimony and any additional information provided to the court pursuant to Section 6306” if such evidence “shows, to the satisfaction of the court,

reasonable proof of a past act or acts of abuse” so long as the court is not issuing mutual restraining orders. If the court issues mutual restraining orders, then the requirements of Family Code section 6305 must be satisfied. For example, a court could issue a restraining order protecting the responding person without an affirmative application for a restraining order by the responding person so long as the court is not also issuing an order protecting the other person.

Assembly Bill 1407

An order transferring a cell phone account made under new Family Code section 6347 will require the court to send a separate order to the service provider that must include the name and contact information of the requesting person (protected person). In considering how to maintain the confidentiality of the protected person’s contact information, the committee considered including the contact information on the order and maintaining the entire order as confidential. However, maintaining the order as confidential would create the need to create a process by which the restrained person could obtain a redacted version of the order.

Implementation Requirements, Costs, and Operational Impacts

The committee anticipates that this proposal will result in some costs incurred by the courts to replace existing forms and to train court staff on new forms and requirements.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Does the proposed language in DV-100, item 15, adequately provide the requesting person with notice of the financial responsibilities involved in an order of this kind?
- Should Form DV-900, if approved, include instructions for cell phone service providers, as reflected on page 2 of DV-900?
- Should Form DV-901, if approved, be a mandatory or optional form?
- Should Form DV-805, if approved, be a mandatory or optional form?
- Should Form DV-815, if approved, be a mandatory or optional form?
- Does Form DV-815, as proposed, meet the statutory requirements without requiring restrained parties or programs to release private or confidential medical or health information otherwise protected by law or not required to be provided under this statute?
- Is the proposed language regarding immigration consequences on DV-110 and DV-130 clear and accurate?

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

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Is the notice provided in plain language such that it will be accessible to a broad range of litigants, including self-represented litigants?
- Would this proposal have any positive or negative impact on low or moderate-income members of the public?

Attachments and Links

1. Assembly Bill 439:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB439

2. Assembly Bill 536:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB536

3. Assembly Bill 1407:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1407

4. DV-100, at pages 9-14
5. DV-110, at pages 15-20
6. DV-120, at pages 21-24
7. DV-120-INFO, at pages 25-27
8. DV-130, at pages 28-34
9. DV-805, at page 35
10. DV-815, at page 36
11. DV-900, at pages 37-38
12. DV-901, at page 39

Draft

Clerk stamps date here when form is filed.

You must also complete Form CLETS-001, Confidential CLETS Information, and give it to the clerk when you file this Request.

1 Name of Person Asking for Protection:

Age: _____

Your lawyer in this case (if you have one):

Name: _____ State Bar No.: _____

Firm Name: _____

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail 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 Name of Person You Want Protection From:

Description of person you want protection from:

Sex: M F Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

Race: _____ Age: _____ Date of Birth: _____

Address (if known): _____

City: _____ State: _____ Zip: _____

3 Do you want an order to protect family or household members? Yes No

If yes, list them:

Table with 5 columns: Full name, Sex, Age, Lives with you?, Relationship to you. Includes checkboxes for Yes/No.

Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title.

4 What is your relationship to the person in (2)? (Check all that apply):

- a. We are now married or registered domestic partners.
b. We used to be married or registered domestic partners.
c. We live together.
d. We used to live together.
e. We are related by blood, marriage, or adoption (specify relationship): _____
f. We are dating or used to date, or we are or used to be engaged to be married.
g. We are the parents together of a child or children under 18:

Child's Name: _____ Date of Birth: _____

Child's Name: _____ Date of Birth: _____

Child's Name: _____ Date of Birth: _____

Check here if you need more space. Attach a sheet of paper and write "DV-100, Protected People" for a title.

h. We have signed a Voluntary Declaration of Paternity for our child or children. (Attach a copy if you have one).

If you do not have one of these relationships, the court may not be able to consider your request. Read Form DV-500-INFO for help.

This is not a Court Order.



5 Other Court Cases

a. Have you or any other person named in ③ been involved in another court case with the person in ②?

No Yes *If yes, check each kind of case and indicate where and when each was filed:*

Kind of Case	County or Tribe Where Filed	Year Filed	Case Number (if known)
<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
<input type="checkbox"/> Civil Harassment	_____	_____	_____
<input type="checkbox"/> Domestic Violence	_____	_____	_____
<input type="checkbox"/> Criminal	_____	_____	_____
<input type="checkbox"/> Juvenile, Dependency, Guardianship	_____	_____	_____
<input type="checkbox"/> Child Support	_____	_____	_____
<input type="checkbox"/> Parentage, Paternity	_____	_____	_____
<input type="checkbox"/> Other (specify): _____	_____	_____	_____

Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Court Cases" for a title.

b. Are there any domestic violence restraining/protective orders now (criminal, juvenile, family)?

No Yes *If yes, attach a copy if you have one.*

Check the orders you want.

6 Personal Conduct Orders

I ask the court to order the person in ② not to do the following things to me or anyone listed in ③:

- a. Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (on the Internet, electronically or otherwise), or block movements
- b. Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail or e-mail or other electronic means

The person in ② will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.

7 Stay-Away Order

a. I ask the court to order the person in ② to stay at least _____ yards away from (check all that apply):

- Me My vehicle
- My home The child(ren)'s school or child care
- My job or workplace Each person listed in ③
- My school Other (specify): _____

b. If the person listed in ② is ordered to stay away from all the places listed above, will he or she still be able to get to his or her home, school, job, workplace, or vehicle? Yes No (If no, explain):

8 Move-Out Order

(If the person in ② lives with you and you want that person to stay away from your home, you must ask for this move-out order.)

I ask the court to order the person in ② to move out from and not return to (address):

I have the right to live at the above address because (explain):

This is not a Court Order.



9 Guns or Other Firearms or Ammunition

I believe the person in ② owns or possesses guns, firearms, or ammunition. Yes No I don't know
If the judge approves the order, the person in ② will be ordered not to own, possess, purchase, or receive a firearm or ammunition. The person will be ordered to sell to, or store with, a licensed gun dealer, or turn in to law enforcement, any guns or firearms that he or she owns or possesses.

10 Record Unlawful Communications

I ask for the right to record communications made to me by the person in ② that violate the judge's orders.

11 Care of Animals

I ask for the sole possession, care, and control of the animals listed below. I ask the court to order the person in ② to stay at least _____ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: _____

I ask for the animals to be with me because: _____

12 Child Custody and Visitation

- a. I do not have a child custody or visitation order and I want one.
 b. I have a child custody or visitation order and I want it changed.

If you ask for orders, you must fill out and attach Form DV-105, Request for Child Custody and Visitation Orders.

You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).

13 Child Support (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.
 c. I now receive or have applied for TANF, Welfare, CalWORKS, or Medi-Cal.

If you ask for child support orders, you must fill out and attach Form FL-150, Income and Expense Declaration or Form FL-155, Financial Statement (Simplified).

14 Property Control

I ask the court to give *only* me temporary use, possession, and control of the property listed here: _____

15 Transfer of Cell Phone Account

I ask the court to transfer the billing responsibility and rights to the following cell phone numbers to me because the account currently belongs to the person in ②:

- | | | |
|--|------------------------------------|---|
| a. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |
| b. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |
| c. Telephone number (including area code): _____ | <input type="checkbox"/> my number | <input type="checkbox"/> child in my care |

Check here if you need more space. Attach a sheet of paper and write "DV-100, Transfer of Cell Phone Account" for a title.

If the judge makes this order, you will be financially responsible for these accounts, including monthly service fees and costs of any mobile devices (examples: cell phones, tablets) connected to these telephone numbers. There may be other fees that you will be responsible for. You should contact the cell phone company to find out what fees you will be responsible for.

This is not a Court Order.



16 **Debt Payment**

I ask the court to order the person in **(2)** to make these payments while the order is in effect:

Check here if you need more space. Attach a sheet of paper and write "DV-100, Debt Payment" for a title.

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

17 **Property Restraint**

I am married to or have a registered domestic partnership with the person in (2). I ask the judge to order that the person in **(2)** not 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.

18 **Spousal Support**

I am married to or have a registered domestic partnership with the person in **(2)** and no spousal support order exists. I ask the court to order the person in **(2)** to pay spousal support. *(You must complete, file, and serve Form FL-150, Income and Expense Declaration, before your hearing).*

19 **Insurance**

I ask the court to order the person in **(2)** NOT to cash, borrow against, cancel, transfer, dispose of, or change the beneficiaries of any insurance or coverage held for the benefit of me or the person in **(2)**, or our child(ren), for whom support may be ordered, or both.

20 **Lawyer's Fees and Costs**

I ask that the person in **(2)** pay some or all of my lawyer's fees and costs.

You must complete, file, and serve Form FL-150, Income and Expense Declaration, before your hearing.

21 **Payments for Costs and Services**

I ask the court to order the person in **(2)** to pay the following:

You can ask for lost earnings or your costs for services caused directly by the person in (2) (damaged property, medical care, counseling, temporary housing, etc.). You must bring proof of these expenses to your hearing.

Pay to: _____ For: _____ Amount: \$ _____

Pay to: _____ For: _____ Amount: \$ _____

22 **Batterer Intervention Program**

I ask the court to order the person listed in **(2)** to go to a 52-week batterer intervention program and show proof of completion to the court.

23 **Other Orders**

What other orders are you asking for? _____

Check here if you need more space. Attach a sheet of paper and write "DV-100, Other Orders" for a title.

This is not a Court Order.



24 **Time for Service (Notice)**

The papers must be personally served on the person in ② at least five days before the hearing, unless the court orders a shorter time for service. If you want there to be fewer than five days between service and the hearing, explain why below. For help, read Form DV-200-INFO, "What Is Proof of Personal Service"?

25 **No Fee to Serve (Notify) Restrained Person**

If you want the sheriff or marshal to serve (notify) the restrained person about the orders for free, ask the court clerk what you need to do.

26 **Court Hearing**

The court will schedule a hearing on your request. If the judge does not make the orders effective right away ("temporary restraining orders"), the judge may still make the orders after the hearing. If the judge does not make the orders effective right away, you can ask the court to cancel the hearing. Read Form DV-112, *Waiver of Hearing on Denied Request for Temporary Restraining Order*, for more information.

27 **Describe Abuse**

Describe how the person in ② abused you. Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to you; or to place you or another person in reasonable fear of imminent serious bodily injury; or to harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, keep you under surveillance, impersonate (on the Internet, electronically or otherwise), batter, telephone, or contact you; or to disturb your peace; or to destroy your personal property. (For a complete definition, see Fam. Code, §§ 6203, 6320.)

a. Date of most recent abuse: _____

b. Who was there? _____

c. Describe how the person in ② abused you or your child(ren):

Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

d. Did the person in ② use or threaten to use a gun or any other weapon? No Yes (If yes, describe):

e. Describe any injuries: _____

f. Did the police come? No Yes

If yes, did they give you or the person in ② an Emergency Protective Order? Yes No I don't know
Attach a copy if you have one.

The order protects you or the person in ②

This is not a Court Order.

27 Describe Abuse (continued)

g. **Has the person in ② abused you (or your child(ren)) other times?**

1. Date of abuse: _____

2. Who was there? _____

3. Describe how the person in ② abused you or your child(ren):

Check here if you need more space. Attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

4. Did the person in _____ use or threaten to use a gun or any other weapon? No Yes (If yes, describe):

5. Describe any injuries: _____

6. Did the police come? No Yes

If yes, did they give you or the person in ② an Emergency Protective Order?

Yes No I don't know Attach a copy if you have one.

The order protects you or the person in ②

If the person in ② abused you other times, check here and use [Form DV-101](#), Description of Abuse or describe any previous abuse on an attached sheet of paper and write "DV-100, Previous Abuse" for a title.

28 Other Persons to Be Protected

The persons listed in item ③ need an order for protection because (describe): _____

29 Number of pages attached to this form, if any: _____

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

Date: _____

Lawyer's name, if you have one

Lawyer's signature

This is not a Court Order.

Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

① Name of Protected Person:

Your lawyer in this case (if you have one):

Name: _____ State Bar No.: _____

Firm Name: _____

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-mail 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 Name of Restrained Person:****Description of restrained person:**

Sex: M F Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____
 Race: _____ Age: _____ Date of Birth: _____
 Address (if known): _____
 City: _____ State: _____ Zip: _____
 Relationship to protected person: _____

③ Additional Protected Persons

In addition to the person named in ①, the following persons are protected by temporary orders as indicated in items ⑥ and ⑦ (family or household members):

Full name	Relationship to person in ①	Sex	Age
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

 Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-110, Additional Protected Persons" as a title.

The court will complete the rest of this form.

④ Court Hearing**This order expires at the end of the hearing stated below:**Hearing Date: _____ Time: _____ a.m. p.m.**This is a Court Order.**

5 **Criminal Protective Order**

- a. A criminal protective order on Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.
Case Number: _____ County: _____ Expiration Date: _____
- b. No information has been provided to the judge about a criminal protective order.

To the person in 2

The court has granted the temporary 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.

6 **Personal Conduct Orders** **Not requested** **Denied until the hearing** **Granted as follows:**

- a. You must **not** do the following things to the person in ① and persons in ③:
- Harass, attack, strike, threaten, assault (*sexually or otherwise*), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (*on the Internet, electronically or otherwise*), or block movements
 - Contact, either directly or indirectly, in any way, including but not limited to, by telephone, mail, e-mail or other electronic means
 - Take any action, directly or through others, to obtain the addresses or locations of the persons in ① and ③. (*If this item is not checked, the court has found good cause not to make this order.*)
- b. Peaceful written contact through a lawyer or process server or another person for service of Form DV-120 (*Response to Request for Domestic Violence Restraining Order*) or other legal papers related to a court case is allowed and does not violate this order.
- c. Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

7 **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*):
- The person in ①
 - The persons in ③
 - Home of person in ①
 - The job or workplace of person in ①
 - Vehicle of person in ①
 - School of person in ①
 - The children's school or child care
 - Other (*specify*): _____
- b. Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

8 **Move-Out Order** **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*): _____

This is a Court Order.

9 No Guns or Other Firearms or Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
 - Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within your immediate possession or control. Do so within 24 hours of being served with this order.
 - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, stored, or sold. (You may use [Form DV-800, Proof of Firearms Turned In, Sold, or Stored](#), for the receipt.) Bring a court filed copy to the hearing.
- c. The court has received information that you own or possess a firearm.

10 Record Unlawful Communications

Not requested Denied until the hearing Granted as follows:

The person in ① can record communications made by you that violate the judge’s orders.

11 Care of Animals Not requested Denied until the hearing Granted as follows:

The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least _____ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: _____

12 Child Custody and Visitation Not requested Denied until the hearing Granted as follows:

Child custody and visitation are ordered on the attached Form DV-140, *Child Custody and Visitation Order* or (*specify other form*): _____. The parent with temporary custody of the child must not remove the child from California unless the court allows it after a noticed hearing (Fam. Code, § 3063).

13 Child Support

Not ordered now but may be ordered after a noticed hearing.

14 Property Control 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: _____

15 Transfer of Cell Phone Account

Not ordered now but may be ordered after a noticed hearing.

16 Debt Payment 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: _____

This is a Court Order.



17 Property Restraint Not requested Denied until the hearing Granted as follows:

If the people in ① and ② are married to each other or are registered domestic partners,
 the person in ① the person 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. *(The person in ② cannot contact the person in ① if the court has made a “no contact” order.)*

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

18 Spousal Support

Not ordered now but may be ordered after a noticed hearing.

19 Insurance

The person in ① the person 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 child(ren), if any, for whom support may be ordered, or both.

20 Lawyer's Fees and Costs

Not ordered now but may be ordered after a noticed hearing.

21 Payments for Costs and Services

Not ordered now but may be ordered after a noticed hearing.

22 Batterer Intervention Program

Not ordered now but may be ordered after a noticed hearing.

23 Other Orders Not requested Denied until the hearing Granted as follows:

Check here if there are additional orders. List them on an attached sheet of paper and write “DV-110, Other Orders” as a title.

24 No Fee to Serve (Notify) Restrained Person

If the sheriff serves this order, he or she will do so for free.

Date: _____

Judge (or Judicial Officer)

This is a Court Order.



Warnings and Notices to the Restrained Person in ②

If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen

- If you do not obey this order, you can 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 you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
 - Deported;
 - Unable to return lawfully to the U.S.; and
 - Unable to become a U.S. citizen.

You Cannot Have Guns, Firearms, And/Or Ammunition.



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.

Service of Order by Mail

If the judge makes a restraining order at the hearing, which has the same orders as in this form, you will get a copy of that order by mail at your last known address, which is written in ②. If this address is incorrect, or to find out if the orders were made permanent, contact the court.

Child Custody, Visitation, and Support

- **Child custody and visitation:** If you do not go to the hearing, 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 a *Financial Statement (Simplified)* (Form FL-155) or an *Income and Expense Declaration* (Form FL-150) 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 an *Income and Expense Declaration* (Form FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing from you.

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.

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, §§ 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. (Pen. Code, §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 according to the following priorities (see Pen. Code, § 136.2, and Fam. Code, §§ 6383(h), 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* (Form EPO-001), and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Child Custody and Visitation

- The custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- **Forms DV-100 and DV-105 are not orders. Do not enforce them.**

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. § 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.**

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

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.

Clerk stamps date here when form is filed.

DRAFT

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Fill in case number:

Case Number:

1 Name of Person Asking for Protection:

(See Form DV-100, item 1):

2 Your Name:

Your lawyer in this case (if you have one):

Name: State Bar No.:

Firm Name:

Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):

Address:

City: State: Zip:

Telephone: Fax:

E-Mail Address:

3 Use this form to respond to the Request for Domestic Violence Restraining Order (Form DV-100).

- Fill out this form and take it to the court clerk.
Have the person in 1 served by mail with a copy of this form and any attached pages.
For more information, read Form DV-120-INFO, How Can I Respond to a Request for Domestic Violence Restraining Order?
Notice: This form is for a response to a restraining order request.

The judge will consider your Response at the hearing.

Write your hearing date, time, and place from Form DV-109, Notice of Court Hearing, item 3, here:

Hearing Date -> Date: Time: Dept.: Room:

You must obey the orders in Form DV-110, Temporary Restraining Order, until the hearing. At the hearing, the court may make restraining orders against you that could last up to five years and could be renewed.

4 Relationship to Person Asking for Protection

- I agree to the relationship listed in item 4 on Form DV-100.
I do not agree that the other party and I have or had the relationship listed in item 4 on Form DV-100. (Specify your reasons in item 25, page 4, of this form.)

5 Other Protected People

- I agree to the order requested.
I do not agree to the order requested. (Specify your reasons in item 25, page 4, of this form.)

6 Personal Conduct Orders

- I agree to the orders requested.
I do not agree to the orders requested. (Specify your reasons in item 25, page 4, of this form.)

This is not a Court Order.



7 **Stay-Away Order**

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

8 **Move-Out Order**

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

9 **Guns or Other Firearms or Ammunition**

If you were served with Form DV-110, Temporary Restraining Order, you must turn in any guns or firearms in your immediate possession or control. 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 DV-110.

- a. I do not own or have any guns or firearms.
b. I ask for an exemption from the firearms prohibition under Family Code section 6389(h) because *(specify):* _____
c. I have turned in my guns and firearms 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 my firearms *(check all that apply):*
 is attached has already been filed with the court.

10 **Record Unlawful Communications**

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

11 **Care of Animals**

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

12 **Child Custody and Visitation**

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
c. I am not the parent of the child listed in Form DV-105, *Request for Child Custody and Visitation Orders*.
d. I ask for the following custody order *(specify):* _____
e. I do I do not agree to the orders requested to limit the child's travel as listed in Form DV-108, *Request for Order: No Travel with Children*.

You and the other parent may tell the court that you want to be legal parents of the children (use Form DV-180, Agreement and Judgment of Parentage).

13 **Child Support** *(Check all that apply):*

- a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
c. I agree to pay guideline child support.

Whether or not you agree to pay support, you must fill out, serve, and file Form FL-150, Income and Expense Declaration, or FL-155, Financial Statement (Simplified).

This is not a Court Order.



- 14** **Property Control**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 15** **Transfer of Cell Phone Account**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 16** **Debt Payment**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 17** **Property Restraint**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 18** **Spousal Support**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.
- 19** **Insurance**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 20** **Lawyer's Fees and Costs**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
c. I request the court to order payment of my lawyer's fees and costs.
Whether or not you agree, you must fill out, serve, and file Form FL-150, Income and Expense Declaration.
- 21** **Payments for Costs and Services**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 22** **Batterer Intervention Program**
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*
- 23** **Other Orders** *(see item 22 on Form DV-100)*
a. I agree to the order requested.
b. I do not agree to the order requested. *(Specify your reasons in item 25, page 4, of this form.)*

This is not a Court Order.



DV-120-INFO **How Can I Respond to a Request for Domestic Violence Restraining Order?****What is a Domestic Violence Restraining Order?**

It is a court order that helps protect people who have been abused or threatened with abuse.

What are the legal requirements?

A Domestic Violence Restraining Order is available if:

- A person has been abused or threatened with abuse, and
- The person who was abused has a certain relationship with the person who did the abuse (married, divorced, separated, registered domestic partnership, have a child together, dating or used to date, live together or used to live together as more than just roommates), or are closely related (mother or mother-in-law, father or father-in-law, child or stepchild, grandparent or grandparent-in-law, grandchild or grandchild-in-law, sister or sister-in-law, brother or brother-in-law, stepparent, daughter-in-law or son-in-law). (See Fam. Code, § 6211).

What is abuse?

Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to the protected person; or sexually assault the protected person; or to place the protected person or another person in reasonable fear of imminent serious bodily injury; or to molest, attack, hit, stalk, threaten, batter, harass, telephone, or contact the protected person; or to disturb the protected person's peace; or to destroy the protected person's personal property. Abuse can be spoken, written, or physical.

What if the legal requirements are not met?

There are other kinds of orders that might apply:

- Civil harassment order (can be used for neighbors, roommates, cousins, uncles, and aunts)
- Dependent adult or elder abuse restraining order
- Workplace violence order

What can a restraining order do?

The court can order the restrained person to:

- Not contact or harm the protected person, including children listed as protected people
- Stay away from all protected people
- Not have any guns or ammunition
- Move out of the house
- Follow child custody and visitation orders
- Pay child support
- Pay spousal support
- Obey property orders

How do I tell my side of the story?

File Form DV-120, *Response to Request for Domestic Violence Restraining Order*, before the hearing date. Also, have someone mail it to the person who asked for the order or to the person's lawyer. This is "Service." The person who mails it must fill out and sign a *Proof of Service by Mail* (Form DV-250). File the *Proof of Service* with the court clerk. Keep a copy. Then, bring a copy of your response on Form DV-120, and the filed *Proof of Service* (Form DV-250), to the hearing.

What if I also have criminal charges against me?

See a lawyer. Anything you say or write, including in this case, can be used against you in your criminal case.



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

How long does the order last?

If the court makes a temporary restraining order, it will last until the hearing date. At that time, the judge will decide to continue or cancel the order. The restraining order can last 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.

Is there a cost to file my Response (Form DV-120)?

No.

What if I have a gun or ammunition?

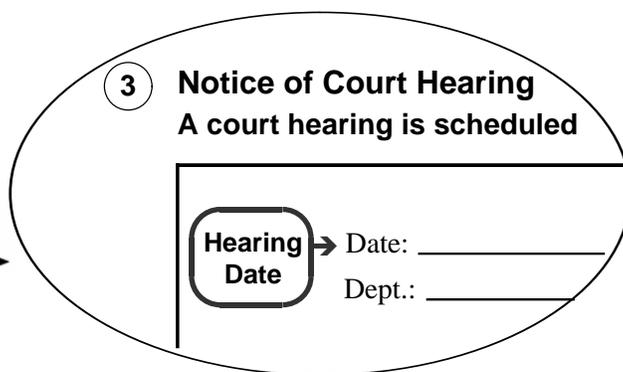
If a restraining order is issued, you cannot own, possess, or have a gun, other firearm, or ammunition while it is in effect. If you have a gun or other firearm in your immediate possession or control, you must sell it to, or store it with, a licensed gun dealer, or turn it in to a law enforcement agency. Read Form DV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms?*

What if I don't obey the court order?

The police can arrest you. You can go to jail and/or pay a fine.

Should I go to the court hearing?

If you do not go to court, the judge can make the orders without hearing from you. If you object to the orders being made, go to court on the hearing date listed on page 1 of Form DV-109, *Notice of Court Hearing*.



What if the person seeking protection contacts me?

No matter what, you have to follow the court order. The order says only what you can do or cannot do.

Will I see the person seeking protection at the court hearing?

If the protected person comes to the hearing, you will see him or her. Do not talk to the protected person unless the judge or that person's lawyer says you can.

Do I need a lawyer?

Having a lawyer is always a good idea, especially if you have children, but it is not required. You are not entitled to a free court-appointed lawyer. Ask the clerk how to find free or low-cost legal services and self-help centers in your county. You can also go to the Family Law Facilitator for help with child support.

Can I bring a witness or other document to the court hearing?

Yes. You can bring witnesses or documents that support your case to the hearing. The judge may or may not let a witness speak at the hearing. So you should also bring copies of the witnesses' written statements of what they saw or heard, signed under penalty of perjury, and provide the other party and the judge with a copy. Your witness can use Form MC-030, *Declaration*, to write a statement.

If we agree, can the person seeking protection and I cancel the order?

No. Once the order is issued, only the judge can change or cancel it.



DV-120-INFO How Can I Respond to a Request for Domestic Violence Restraining Order?

What if I do not speak English?

When you file your papers, ask the clerk if a court interpreter is available. If an interpreter is not available for your court date, bring someone to interpret for you. Do not ask a child, a witness, or anyone to be protected by the order to interpret for you.

What if I do not have a Green Card or U.S. Citizenship?

The order is valid even if you are not a U.S. citizen or lawful permanent resident (Green Card holder). If you are worried about your immigration status, talk to an immigration lawyer.

Can I use the 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. The court staff can tell you where to get legal help.

What if I have children with the person to be protected?

The judge can make temporary orders for child custody and visitation. If the judge makes a temporary order for child custody, the parent with custody may not remove the child from California before notice to the other parent and a court hearing. Read the order for any other limits. There are some exceptions. Ask a lawyer.

What if I want to leave the county or state?

You must still comply with the restraining order. The restraining order is valid anywhere in the United States.

What if I am deaf or hard of hearing?



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 *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8.)

What if I want a restraining order against the other person?

In order for the court to grant a restraining order, the court must find that the legal requirements are met (see Page 1 of this form). If the court finds that both parties have been abused by the other party the court can grant restraining orders protecting both parties from the other, also called mutual restraining orders, but ONLY if:

- 1) Both people are in court at the hearing;
- 2) Each person gives the court written evidence of abuse or domestic violence on Form DV-100; and,
- 3) The judge finds that neither party acted primarily in self-defense and both acted as "primary aggressors."

For more information on how to ask your own restraining order read Form DV-505-INFO (*How Do I Ask For a Temporary Restraining Order?*).

What if I am a victim of domestic violence?

Ask the court clerk about free or low-cost legal help. For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

It's free and private.

They can help you in more than 100 languages.

For help in your area, contact:

[Local information may be inserted]

Original Order Amended Order

Clerk stamps date here when form is filed. DRAFT - NOT APPROVED BY THE JUDICIAL COUNCIL

1 Name of Protected Person:

Your lawyer in this case (if you have one): Name: State Bar No.: Firm Name: Address (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.): Address: City: State: Zip: Telephone: Fax: E-Mail Address:

Fill in court name and street address: Superior Court of California, County of

2 Name of Restrained Person:

Description of restrained person:

Sex: M F Height: Weight: Hair Color: Eye Color: Race: Age: Date of Birth: Mailing Address (if known): City: State: Zip: Relationship to protected person:

Clerk fills in case number when form is filed. Case Number:

3 Additional Protected Persons

In addition to the person named in 1, the following persons are protected by orders as indicated in items 6 and 7 (family or household members):

Table with 4 columns: Full name, Relationship to person in 1, Sex, Age

Check here if there are additional protected persons. List them on an attached sheet of paper and write, "DV-130, Additional Protected Persons," as a title.

4 Expiration Date

The orders, except as noted below, end on

(date): at (time): a.m. p.m. or midnight

- 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. Note: 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. The court orders are on pages 2, 3, 4, and 5 and attachment pages (if any).

This order complies with VAWA and shall be enforced throughout the United States. See page 5.

This is a Court Order.



5 Hearings

- 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): _____
- c. The people in ① and ② must **return to Dept.** _____ **of the court** on (date): _____
at (time): _____ a.m. p.m. to review (specify issues): _____

To the person in ② :

The court has granted the orders checked below. Item ⑨ is also an order. 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.

6 Personal Conduct Orders

- a. The person in ② must **not** do the following things to the protected people in ① and ③:
- Harass, attack, strike, threaten, assault (*sexually or otherwise*), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, impersonate (*on the Internet, electronically or otherwise*), or block movements.
- Contact, either directly or indirectly, by any means, including, but not limited to, by telephone, mail, e-mail, or other electronic means.
- Take any action, directly or through others, to obtain the addresses or locations of any protected persons. (*If this item is not checked, the court has found good cause not to make this order.*)
- b. 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.
- c. Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

7 Stay-Away Order

- a. The person in ② **must** stay at least (specify): _____ yards away from (check all that apply):
- The person in ① School of person in ①
- The persons in ③ The child(ren)'s school or child care
- Home of person in ① Other (specify): _____
- The job or workplace of person in ① _____
- Vehicle of person in ① _____
- b. Exceptions: Brief and peaceful contact with the person in ①, and peaceful contact with children in ③, as required for court-ordered visitation of children, is allowed unless a criminal protective order says otherwise.

8 Move-Out Order

The person in ② must move out immediately from (address): _____

9 No Guns or Other Firearms or Ammunition

- a. The person in ② cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.

This is a Court Order.

- 9 b. The person in ② must:
- Sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms within his or her immediate possession or control. Do so within 24 hours of being served with this order.
 - Within 48 hours of receiving this order, file with the court a receipt that proves guns have been turned in, sold, or stored. ([Form DV-800, Proof of Firearms Turned In, Sold, or Stored](#), may be used for the receipt.) Bring a court filed copy to the hearing.
- c. The court has received information that the person in ② owns or possesses a firearm.
- d. The court has made the necessary findings and applies the firearm relinquishment exemption under Family Code section 6389(h). Under California law, the person in ② is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____
 The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in ② may be subject to federal prosecution for possessing or controlling a firearm.

10 **Record Unlawful Communications**
 The person in ① has the right to record communications made by the person in ② that violate the judge’s orders.

11 **Care of Animals**
 The person in ① is given the sole possession, care, and control of the animals listed below. The person in ② must stay at least _____ yards away from and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of the following animals: _____

12 **Child Custody and Visitation**
 Child custody and visitation are ordered on the attached form DV-140, *Child Custody and Visitation Order* or (*specify other form*): _____

13 **Child Support**
 Child support is ordered on the attached form FL-342, *Child Support Information and Order Attachment* or (*specify other form*): _____

14 **Property Control**
 Only the person in ① can use, control, and possess the following property: _____

15 **Transfer of Cell Phone Account**
 The court has made an order transferring one or more wireless service accounts from the person in ② to the person in ①. These orders are contained in a separate order (Form DV-900).

16 **Debt Payment**
 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: _____

Check here if more payments are ordered. List them on an attached sheet of paper and write “DV-130, Debt Payments” as a title.

This is a Court Order.



17 **Property Restraint**

The person in **1** person 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, the person must notify the other of any new or big expenses and explain them to the court. *(The person in **2** cannot contact the person in **1** if the court has made a “No-Contact” order.)*

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

18 **Spousal Support**

Spousal support is ordered on the attached form FL-343, *Spousal, Partner, or Family Support Order Attachment* or (*specify other form*): _____

19 **Insurance**

The person in **1** the person 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 child(ren), if any, for whom support may be ordered, or both.

20 **Lawyer's Fees and Costs**

The person in **2** must pay the following lawyer’s fees and costs:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

21 **Payments for Costs and Services**

The person in **2** must pay the following:

Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____
Pay to: _____ For: _____ Amount: \$ _____ Due date: _____

Check here if more payments are ordered. List them on an attached sheet of paper and write “DV-130, Payments for Costs and Services” as a title.

22 **Batterer Intervention Program**

The person in **2** must go to and pay for a 52-week batterer intervention program and show written proof of completion to the court. This program must be approved by the probation department.

23 **Other Orders**

Other orders (*specify*): _____

24 **No Fee to Serve (Notify) Restrained Person**

If the sheriff or marshal serves this order, he or she will do it for free.

This is a Court Order.



25 Service

- a. The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b. The person in ① was at the hearing on the request for original orders. The person in ② was not present.
 - (1) Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. The judge’s orders in this form are the same as in form DV-110 except for the end date. The person in ② must be served. This order can be served by mail.
 - (2) Proof of service of form DV-109 and form DV-110 (if issued) was presented to the court. 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.
- 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 ② was not at the hearing and must be personally “served” (given) a copy of this amended order.

26 Criminal Protective Order

- a. Form CR-160, *Criminal Protective Order—Domestic Violence*, is in effect.
Case Number: _____ County: _____ Expiration Date: _____
- b. Other Criminal Protective Order in effect (*specify*): _____
Case Number: _____ County: _____ Expiration Date: _____
(List other orders on an attached sheet of paper. Write “DV-130, Other Criminal Protective Orders” as a title.)
- c. No information has been provided to the judge about a criminal protective order.

27 Attached pages are orders.

- Number of pages attached to this six-page form: _____
- All of the attached pages are part of this order.
- Attachments include (*check all that apply*):
 - DV-140 DV-145 DV-150 FL-342 FL-343
 - Other (*specify*): _____

Date: _____

Judge (or Judicial Officer)

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. § 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.**

This is a Court Order.



Warnings and Notices to the Restrained Person in ②

If You Do Not Obey This Order, You Can Be Arrested, Charged With a Crime, And You May Also Have Immigration Consequences if You Are Not a U.S. Citizen

- If you do not obey this order, you can 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 you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If the court finds that you violated this order and you are NOT a U.S. citizen, you may or will be:
 - Deported;
 - Unable to return lawfully to the U.S.; and
 - Unable to become a U.S. citizen.

You cannot have guns, firearms, and/or ammunition.



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, and/or ammunition while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. Unless the court grants an exemption, you must sell to, or store with, a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect. Even if exempt under California law, you may be subject to federal prosecution for possessing or controlling a firearm.

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 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.

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

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. (Fam. Code, § 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. (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Order System (DVROS). (Fam. Code, § 6381(b)-(c).)

This is a Court Order.

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. (Pen. Code, § 13710(b).)

Child Custody and Visitation

The custody and visitation orders are on form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.

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.

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 Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

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.

Clerk stamps date here when form is filed.

DRAFT
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 Protected Person

Name: _____

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. 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.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

3 To the Restrained Person:

If the court has ordered you to complete a 52-week batterer intervention program, you may use this form to prove to the court that you have obeyed its orders. After the order is made, you must enroll in a program by the date ordered by the judge. If the judge did not order you to enroll by a certain date then you must enroll no later than 30 days after the judge made the order.

4 Batterer Intervention Program

a. I have enrolled in a batterer intervention program:

Name of provider: _____

Address: _____

Telephone number: _____

- b. This program has been approved by the probation department.
- c. I have signed all necessary forms with the program, allowing the program to release proof of enrollment, attendance records, and completion or termination reports to the court and the protected party, or his or her attorney.
- d. My first class is/was:
- e. Other (list any other order made by the court that you have completed):

f. You must provide the protected party with the information listed in ①. You can do so by mailing the protected party a copy of this form.

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

Clerk stamps date here when form is filed.

DRAFT

**NOT APPROVED
BY THE JUDICIAL
COUNCIL**

1 Name of Protected Person: _____

2 Name of Restrained Person: _____

Lawyer for Restrained Person (if applicable):

Name: _____ State Bar No.: _____

Address (Address of lawyer or address of restrained person. Do not provide an address that should be kept private.):

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Fill in court name and street address:

Superior Court of California, County of

3 **BATTERER INTERVENTION PROGRAM**
(items 3 through 5 must be completed by the program)

a. Name of Program: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Report date: _____ Intake date: _____ Class start date: _____

b. This 52-week program is approved by the probation department under Penal Code section 1203.097.

TO PROGRAM STAFF: If you choose to provide another report that contains all the information in 4, skip to 5 and attach you report. Do not forget to provide your name, signature and date at the end of this form.

Court fills in case number when form is filed.

Case Number:

4 **PROGRAM ATTENDANCE AND PROGRESS**

a. Number of sessions completed: _____ Number of sessions missed: _____

Of the sessions missed, how many excused? _____

b. The person in 2 is participating and expected to finish by (date): _____

c. The person in 2 successfully completed on (date): _____

d. The person in 2 was terminated from the program on (date): _____, for the following reason (explain): _____

5 **OPTIONAL REPORT**

The attached report includes all information required under California Family code section 6343.

NOTICE TO PROGRAM PROVIDER

This form should NOT be used to disclose information that is protected under state and federal laws without appropriate written authorization from the person in 2 (example: medical information)

The above information is true and correct to the best of my knowledge.

Date: _____

(TYPE OR PRINT NAME AND TITLE)



(SIGNATURE OF PROGRAM STAFF)

Clerk stamps date here when form is filed.

DRAFT

**NOT APPROVED
BY THE JUDICIAL
COUNCIL**

TO THE CELL PHONE SERVICE PROVIDER: This order is made under California Family Code section 6347. This order applies to the following cell phone service provider:

Name: _____

Address (see service provider's agent for service of process listed with Secretary of State):

Fill in court name and street address:

Superior Court of California, County of

The **current account holder** to the telephone number(s) listed in item ① is:

Name: _____

Billing account telephone number: _____

**THE COURT ORDERS THE FOLLOWING:
TRANSFER OF RIGHTS AND RESPONSIBILITIES**

Fill in case number:

Case Number:

① **This order applies to the following cell phone number(s):**

Telephone number (include area code): _____

Check box to include attachment with additional telephone number(s).

② All rights and responsibilities for the accounts listed in ①, including all financial responsibility for the telephone numbers, monthly service costs, and costs for any mobile device associated with the telephone numbers, must be transferred to:

(Name of new account holder): _____, effective (specify date): _____

The new account holder's information is contained on the attached confidential form.

③ The requesting party must send this order to the cell phone service provider listed above.

Date: _____

Judicial Officer

This is a Court Order.

Case Number:

INSTRUCTIONS FOR CELL PHONE SERVICE PROVIDER

The orders contained on page 1 of this form must be performed unless the cell phone service provider (provider) cannot operationally or technically effectuate the order due to certain circumstances, including, but not limited to, any of the following:

- When the current accountholder has already terminated the account
- When differences in network technology prevent the functionality of a device on the network
- When there are geographic or other limitations on network or service availability

If the provider determines that transfer CANNOT occur, then the provider MUST notify the person in ② within 72 hours of receipt of this order (California Family Code section 6347).

This is a Court Order.

Your name: _____

Case Number: _____

**ATTACHMENT TO
ORDER TRANSFERRING CELL PHONE ACCOUNT (form DV-900)**

Confidential Information

DO NOT FILE THIS FORM WITH THE COURT

ATTENTION PROTECTED PERSON: This form should not be filed with the court. Complete this form and send it to the cell phone service provider (*service provider*). You must also send a copy of the order (Form DV-900) with this form.

To be completed by Protected Person:

① Your name (*New account holder*): _____

② Your contact information (*This information will be used by the cell phone service provider only. The provider will use this information to contact you to set up your account*):

The best phone number to reach me at is: _____

Another phone number to reach me at is (*list a phone number that is not controlled by the restrained person*):

Email address (*optional*): _____

Mailing address (*optional*): _____

③ The Restrained Person is (*name*): _____

WHERE SHOULD I SEND FORM DV-900 AND THIS FORM (DV-901)?

To find out where to send these forms, go to the Secretary of State's website at (*link inserted once available*) OR check at: (*link to Judicial Council's website inserted once available*) and search for your service provider. You will be able to send the forms by mail, email or fax, depending on who the provider is. The account(s) will NOT be transferred to you if you do not send these forms to the service provider.

ATTENTION CELL PHONE SERVICE PROVIDER

Under the Domestic Violence Prevention Act, California Family Code section 6347, the information contained on this form is **CONFIDENTIAL** and must not be disclosed to the Restrained Person (*listed in ③*).

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Family Law: Special Immigrant Juvenile Findings

Committee or other entity submitting the proposal:

Family and Juvenile Law 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:

Approved by RUPRO: December 10, 2015

Project description from annual agenda: Special Immigrant Juvenile Status

To enrich recommendations to the council and to avoid duplication of efforts, the committee will continue to collaborate with the Probate and Mental Health Advisory Committee and the CJER Governing Committee to implement Senate Bill 873, Assembly Bills 899 and 900 (Stats. 2015, ch 694), and any other federal and state legislation or judicial decision that affects the intersection of federal immigration law and California child welfare or child custody law. This collaboration may include development of rules and forms, educational events, informational materials, and other resources to aid judges and court staff as well as justice partners and court users.

If requesting July 1 or out of cycle, explain:

In 2014, Senate Bill 873 added section 155 to the Code of Civil Procedure. New section 155 affirmed the authority of the superior courts to make Special Immigrant Juvenile (SIJ) findings in child custody or welfare proceedings. The statute offered general procedural guidance and required the Judicial Council to adopt any rules and forms needed to implement its provisions. In the spring 2015 invitation-to-comment cycle, the Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee jointly proposed adopting several Judicial Council forms for requesting and adjudicating requests for Special Immigrant Juvenile (SIJ) findings as well as a rule of court outlining the process for requesting SIJ findings in probate guardianship proceedings. The Judicial Council adopted the rule and forms in that proposal, as modified in response to comments received, to take effect January 1, 2016, at its October 2015 meeting.

As part of that proposal, the committees requested specific comment on whether a rule of court outlining the process for requesting SIJ findings in family law custody proceedings was needed to implement SB 873 by promoting timely and accurate adjudication of SIJ requests in those proceedings. Commentators who addressed the issue agreed unanimously that such a rule was needed. Because SB 873 took effect more than a year ago and anecdotal evidence suggests that the number of requests for SIJ findings in family law custody proceedings continues to increase, the Family and Juvenile Law Advisory Committee recommends circulating the proposed rule in the winter 2016 cycle. Winter circulation will permit the public and the Judicial Council to review the rule and act on it for a July 1, 2016, effective date.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

W16-__

Title	Action Requested
Family Law: Special Immigrant Juvenile Findings	Review and submit comment by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.130	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Corby Sturges, 415-865-4507 corby.sturges@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee recommends adopting a rule of court to guide litigants and courts in filing and adjudicating requests for Special Immigrant Juvenile (SIJ) findings in family law custody proceedings. The rule is needed for effective implementation of section 155 of the Code of Civil Procedure. (Sen. Bill 873; Stats. 2014, ch. 685, § 1.) Adoption of the rule would also respond to requests for a rule from the courts and the public in response to a previous invitation to comment.

Background

Special Immigrant Juvenile (SIJ) status was created by federal law in 1990 in response to concerns that state court child custody and child welfare determinations—especially permanent placements in juvenile dependency proceedings—were being undermined and the health, safety, and welfare of undocumented children were being placed in jeopardy by the risk that those children would be deported. To mitigate that risk by permitting abused, neglected, or abandoned immigrant children to remain in safe, stable, court-ordered placements in the United States, Congress amended the Immigration and Nationality Act (INA)¹ to include specified immigrant children within the class of “special immigrants,” eligible for admission to the United States and authorized to apply for adjustment to lawful permanent resident (LPR) status.²

¹ Pub.L. No. 82-414 (June 27, 1952) 66 Stat. 163, codified as amended at 8 U.S.C. § 1101 et seq.

² Immigration Act of 1990 (Pub.L. No. 101-649 (Nov. 29, 1990) 104 Stat. 4978), § 153.

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

The INA defines an SIJ as an immigrant child³ present in the United States (1) “who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States”; (2) whose reunification with one or both of his or her parents is not viable because of abuse, neglect, abandonment, or a similar basis under state law; and (3) for whom it has been determined by a juvenile court or authorized administrative agency that it would not be in his or her best interest to be returned to his or her country of nationality or last habitual residence.⁴

To apply for SIJ classification, a child must obtain and attach to his or her application a “juvenile court order” finding that the applicant satisfies each of the three elements of the statutory SIJ definition.⁵ The INA relies on predicate findings regarding these elements by state courts, made in proceedings under state law, in recognition of the fact that the federal immigration agencies are neither authorized to make child custody and child welfare decisions nor competent to resolve issues of abuse, neglect, abandonment, or a child’s best interest.

The federal SIJ regulations define a “juvenile court” broadly as “a court located in the United States having jurisdiction to make judicial determinations about the custody and care of” children.⁶ In California, the superior courts are courts of general jurisdiction. Any duly sworn superior court judge may hear and determine any action over which a statute has granted the court subject matter jurisdiction.⁷ But only in the context of certain actions or proceedings does the court hold authority to make a determination about the custody or care of a child. These proceedings include dependency and delinquency proceedings under the Juvenile Court Law (Welf. & Inst. Code, §§ 200–987), custody proceedings under the Family Code,⁸ and guardianship proceedings under the Probate Code.⁹

California Law

In response to the increase in unaccompanied, undocumented children entering the southwestern United States and released to sponsors around the country,¹⁰ as well as perceived uncertainty

³ For purposes of the INA, a child is an unmarried person under 21 years old.

⁴ INA, 8 U.S.C. § 1101(a)(27)(J).

⁵ See 8 C.F.R. § 204.11(d)(2).

⁶ *Id.*, at § 204.11(a); 58 Fed.Reg. 42843, 42850 (Aug. 12, 1993).

⁷ See, e.g., *In re Chantal S.* (1996) 13 Cal.4th 196. In smaller courts, a single judge will hear and determine actions arising under several different codes. Larger courts are organized as a matter of convenience into divisions, each of which hears actions authorized under a specific code or codes.

⁸ See Fam. Code, §§ 200, 3020–3048.

⁹ See Prob. Code, §§ 800, 1510–1516, 2351.

¹⁰ Of the 68,541 unaccompanied children detained entering the U.S. in federal fiscal year 2014, 53,550 of those children were released from custody to private sponsors. A sponsor may be an adult relative (parent, aunt or uncle, sibling, cousin), family friend, or volunteer. 5,842 unaccompanied children were released to sponsors in California, more than half of those in Los Angeles County. Although fiscal year 2015 saw a significant drop in unaccompanied

regarding the authority of the superior courts to make SIJ predicate findings, California enacted section 155 of the Code of Civil Procedure.¹¹ Section 155 incorporates the elements of the federal SIJ statute as interpreted by the California Court of Appeal. Subdivision (a) affirms the superior court's authority to make SIJ predicate findings in child custody and welfare proceedings, including probate guardianship and family law custody proceedings. Subdivision (b) requires the superior court to make the SIJ findings when requested if it has received sufficient evidence to support them and provides that the evidence may consist of, but is not limited to, a credible declaration by the child who is the subject of the requested findings. Subdivision (b) also incorporates, almost verbatim, the elements of the federal SIJ definition that require documentation in state court findings. Subdivision (c) protects the confidentiality of information about the immigration status of a child requesting SIJ findings if that information is not otherwise protected by state law. Subdivision (d) provides for sealing of the record of a proceeding to request SIJ findings in accordance with rules 2.550 and 2.551. Subdivision (e) of section 155 specifically requires the Judicial Council to adopt any rules of court and forms needed to implement these provisions.

Prior Circulation

In spring 2015, the Family and Juvenile Law Advisory Committee collaborated with the Probate and Mental Health Advisory Committee to develop and circulate forms to implement section 155 along with a rule of court specifying the procedure for filing and adjudicating a request for SIJ findings in a probate guardianship proceeding. These forms included a *Petition for Special Immigrant Juvenile Predicate Findings* (form GC-220) for use in probate guardianship proceedings, a *Request for Special Immigrant Juvenile Findings—Family Law* (form FL-356) for use in family law custody proceedings, and a *Request for Special Immigrant Juvenile Predicate Findings—Juvenile* (form JV-356) for use in juvenile dependency and delinquency proceedings. All three forms provide separate, but similar, formats for requesting SIJ predicate findings. They solicit the information necessary for the superior court to make the SIJ findings if supported by sufficient evidence. The committees also proposed and circulated a joint SIJ findings form, *Special Immigrant Juvenile Findings* (form FL-357/GC-224/JV-357). The Judicial Council adopted the recommended rule and forms at its October 27, 2015, business meeting. The rule and forms will take effect January 1, 2016.

The Proposal

The family law rule in this proposal is intended to further the legislative mandate in section 155(e) of the Code of Civil Procedure by promoting the timely and effective adjudication of requests for SIJ findings in family law custody proceedings. The rule would also respond to requests from courts and attorneys for a rule of court addressing SIJ findings in family law proceedings.

children entering the U.S., the number of federal SIJ petitions has continued to increase. This suggests that the state courts will continue to see increased requests for SIJ findings.

¹¹ Stats. 2014, ch. 685 (Sen. Bill 873), § 1 (effective September 27, 2014). A copy of section 155 is accessible via link at the end of this invitation.

As part of their joint proposal to address SIJ findings circulated in spring 2015, the Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee requested specific comment on whether a similar rule specifying a process for filing and adjudicating requests for SIJ findings in family law custody proceedings would be useful. Commentators who addressed the issue unanimously urged the Family and Juvenile Law Advisory Committee to develop such a rule.

Proposed rule 5.130 would specify procedures for filing and determining requests for SIJ findings in proceedings under the Family Code.¹² The rule would specify the types of family law proceedings in which a request for SIJ findings might be made (rule 5.130(a)(1)). It would further specify that the rules governing the procedures for filing and adjudicating requests for orders in family court apply to requests for SIJ findings (rule 5.130(b)).

The rule would then address who may file a request for SIJ findings. Rule 5.130(b)(2) would specify the procedural contexts in which a request may be filed. The rule would also require that a separate form FL-356 be filed for each child for whom SIJ findings are requested, and that a request for SIJ findings may be combined with a request for other orders regarding the same child. (Rule 5.130(b)(3)–(4). Any person entitled to notice of a *Request for Order* under rule 5.92 would be permitted to file an objection or opposition to the request. (Rule 5.130(c).)

The rule would emphasize that, to obtain a hearing on a request for SIJ findings, a party must file a *Request for Order* (form FL-300) with form FL-356 attached. (Rule 5.130(d).) The rule would permit consolidation into one hearing a request for custody and a request for SIJ findings for the same child and separate requests for SIJ findings for multiple siblings or half-siblings. (Rule 5.130(d)(1)–(2).) Courts in which proceedings related to siblings or half-siblings were pending would be permitted to communicate about consolidation and proper venue consistent with the procedures and limits in section 3410(b)–(e) of the Family Code. (Rule 5.130(d)(3).)

In a case involving requests for SIJ findings for more than one child, the court would need to issue a separate set of findings for each qualified child in the case. (Rule 5.130(e).) Separate findings are advisable because the federal immigration proceedings for all qualified children in the same state court family law proceeding are not likely to be combined or consolidated.

Rule 5.130(f) would implement the confidentiality requirement in section 155(c) of the Code of Civil Procedure by requiring that all records of a proceeding on a request for SIJ findings that include information about the child’s immigration status be kept in a confidential part of the family law file or in a separate, confidential file.¹³ Finally, rule 5.130(g) would implement

¹² All subsequent rule references are to the California Rules of Court unless otherwise specified.

¹³ Section 155(c) also limits inspection of immigration information in the record to certain specified persons. The committee considered addressing this limit in the proposed rule, but decided not to do so because of uncertainty over the reach of the statute.

section 155(d) by specifying that the record of a proceeding in response to a request for SIJ findings that is not otherwise required by law to be kept confidential may be sealed if the requirements of rules 2.550 and 2.551 are met.

Alternatives Considered

The committee considered developing or specifying separate procedures for requesting SIJ findings in family law custody proceedings. It decided, however, that the existing statutes and rules establishing procedures for requesting court orders in family law proceedings suited these requests as well.

The committee also considered including other statutory requirements in the rule. For example, commentators in spring 2015 suggested that a family law rule might include guidance on whether appointment of a guardian ad litem for a minor child is authorized or required in a proceeding to determine a request for SIJ findings. Because the committee concluded that the statutory requirements governing the underlying family law proceeding (a) apply to requests for SIJ findings, (b) vary depending on the specific type of proceeding, and (c) are sufficiently clear and detailed, it did not find sufficient reason to depart from the council’s policy against restating statutory provisions in the rules of court.

Finally, as discussed in footnote 13, the committee considered whether and how to implement the confidentiality provisions in section 155(c) of the Code of Civil Procedure and section 831 of the Welfare and Institutions Code. Because of possible conflict between statutory provisions along with the complexity of existing confidentiality law, the committee chose to defer action on these issues rather than risk giving guidance at odds with legislative intent.

Implementation Requirements, Costs, and Operational Impacts

Implementation of this proposal should require only modest implementation and training costs. The adoption of the proposed rule might require some training of judicial officers and court staff, particularly staff that receives and processes filings in family law proceedings. The training costs should be offset by fewer repeat filings and shorter wait times in the clerk’s office as well as fewer continued hearings in the courtroom.

The committee also considered, and for similar reasons does not propose, a rule to implement Assembly Bill 899 (Stats. 2015, ch. 267). AB 899 added section 831 to the Welfare and Institutions Code to clarify that juvenile court records “should remain confidential regardless of the juvenile’s immigration status.” (Welf. & Inst. Code, § 831(a).) Section 831 goes on to state that nothing in article 22 (beginning with section 825) of chapter 2 of division 2 of the Welfare and Institutions Code, which governs access to juvenile court records, authorizes disclosure to, dissemination to or by, or attachment to documents given to or provided by “federal officials” of “juvenile information” without a court order in response to a petition filed under section 827(a)(1)(P) or 827(a)(4). (Welf. & Inst. Code, § 831(b)–(d).) The statute then defines “juvenile information” to include not only the case file, but also “information related to the juvenile, including name [and] date or place of birth,” regardless of its origin or source, as long as it is “maintained by a government agency.” (Welf. & Inst. Code, § 831(e).) Despite its express intent only to declare existing law, AB 899 seems to extend confidentiality to information not otherwise currently protected. Given multiple plausible yet conflicting interpretations of legislative language and intent, the committee has chosen to defer action pending further legislative or judicial guidance.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- Would this proposal have different effects on courts of different sizes? How so?

Attachments and Links

1. Proposed rule 5.130 of the California Rules of Court, at pages 7–9
2. Code of Civil Procedure, § 155,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=155.#
3. AB 899 (Stats. 2015, ch. 267),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB899

1 (B) As an attachment to a *Request for Order* (form FL-300) or a
2 *Responsive Declaration to a Request for Order* (form FL-320).

3
4 (C) In an initial action under the Domestic Violence Prevention Act, as an
5 attachment to *Request for Order (Domestic Violence Prevention)* (form
6 DV-100) or *Answer to Temporary Restraining Order (Domestic*
7 *Violence Prevention)* (form DV-120).

8
9 (3) *Separate FL-356 for each child*

10
11 A separate form FL-356 must be filed for each minor child for whom SIJ
12 findings are requested.

13
14 (4) *Requests for multiple orders*

15
16 A party filing a request under this rule may combine that request with a
17 request for other orders relating to the child under the Family Code.

18
19 (c) **Opposition to request**

20
21 Any person entitled to notice of a *Request for Order* (FL-300) under rule 5.92 may
22 file an objection or other opposition to a request under this rule using *Responsive*
23 *Declaration to Request for Order* (form FL-320).

24
25 (d) **Hearing on request**

26
27 To obtain a hearing on a request under this rule, a party must file a *Request for*
28 *Order* (form FL-300) and attach a *Request for Special Immigrant Juvenile*
29 *Findings—Family Law* (form FL-356) for each child for whom SIJ findings are
30 requested.

31
32 (1) If filed at the same time as a request for a determination of custody or
33 parenting time with respect to a minor child, a request for SIJ findings for
34 that child and the request for order determining custody or parenting time
35 may be heard and determined together.

36
37 (2) The court may consolidate into one hearing separate requests under this rule
38 for more than one sibling or half-sibling named in the same family law case
39 or separate family law cases.

40
41 (3) If custody proceedings relating to siblings or half-siblings are pending in
42 multiple departments of a single court or in the courts of more than one
43 California county, the departments or courts may communicate about

1 consolidation consistent with the procedures and limits in section 3410(b)–(e)
2 of the Family Code.

3
4 **(e) Separate findings under this rule**

5
6 The court must make a separate set of findings on a separate *Special Immigrant*
7 *Juvenile Findings* (form FL-357/GC-224/JV-357) for each minor child for whom a
8 request under this rule is made, whether the requests are made in a single custody
9 proceeding under the Family Code or multiple custody proceedings.

10
11 **(f) Confidentiality (Code Civ. Proc., § 155(c))**

12
13 All records pertaining to a request under this rule that include information about the
14 child’s immigration status must be kept in a confidential part of the case file or,
15 alternatively, in a separate confidential file.

16
17 **(g) Sealing of record (Code Civ. Proc., § 155(d))**

18
19 A record or any part of a record pertaining to a request under this rule that is not
20 required by law to be kept confidential may be sealed if the requirements of rules
21 2.550 and 2.551 are met.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (out of cycle)**

RUPRO Meeting: December 10 or 11, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Family Law: Changes to Petition and Response

Revise forms FL-100 and FL-120

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Gabrielle D. Selden, 415-865-8085, gabrielle.selden@jud.ca.gov

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

Approved by RUPRO: Approved December 10, 2015. Item 26: Family Law Petition Forms

Project description from annual agenda: Revise forms FL-100 and FL-120 to remove legally incorrect language (reference to "state" following U.S. Supreme Court's Obergefell v. Hodges decision).

If requesting July 1 or out of cycle, explain:

Forms FL-100 and FL-120 are required to request a dissolution of any marriage in California. The U.S. Supreme Court made its decision in Obergefell v. Hodges on June 26, 2015. The forms should be changed as soon as possible to conform to the present state of the law regarding the dissolution of a same-sex marriage.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

W16-8

Title	Action Requested
Family Law: Changes to Petition and Response	Review and Submit Comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms FL-100 and FL-120	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Gabrielle D. Selden, 415-865-8085 gabrielle.selden@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes revising *Petition—Marriage/Domestic Partnership* (form FL-100) and *Response—Marriage/Domestic Partnership* (form FL-120) to reflect the U.S. Supreme Court decision in *Obergefell v. Hodges*,¹ which requires all states in the U.S. to license marriage between two people of the same sex and recognize a lawful marriage between two people of the same sex which was performed out-of-state.

The Proposal

Forms FL-100 and FL-120 contain a provision in item 2(b) based on provisions in Family Code section 2320 (b)(1).² Section 2320 allows same sex couples who married but no longer reside in California to file for divorce in this state if the jurisdiction where they live does not recognize their marriage. If it does not, then the code includes a rebuttable presumption that the jurisdiction will not dissolve the same-sex marriage. The specific language in current forms FL-100 and FL-120 is as follows:

¹ *Obergefell v. Hodges* (2015) 575 U.S. ____

² The complete text of Family Code section 2320 is at:
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FAM§ionNum=2320.

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

We are the same sex and were married in California, but are not residents of California. Neither of us lives in a state or nation that will dissolve the marriage. This case is filed in the county in which we married. Petitioner's residence (*state or nation*): Respondent's residence (*state or nation*):

In light of the Supreme Court's decision in *Obergefell v. Hodges*, it would seem that there will no longer be any state in the U.S. which will *not* recognize same sex marriages. Thus, the Family and Juvenile Law Advisory Committee suggests revising item 2b on forms FL-100 and FL-120 by deleting "state or nation" and replacing it with "jurisdiction" in the first sentence. This and other proposed changes are illustrated below and shown in the attached forms:

We are the same sex and were married in California, but are not residents of California. Neither of us lives in a jurisdiction that will dissolve the marriage. This case is filed in the county in which we married. Petitioner's residence (specify): Respondent's residence (specify):

Alternatives Considered

The committee considered revising the forms using other terms instead of "jurisdiction." It considered the term "country" but rejected this since the word is often misread as "county" and could cause some confusion. The committee considered maintaining "nation" but thought it could be misinterpreted as excluding geographic regions that are considered "territories," "commonwealths," or "kingdoms."

The committee considered making technical changes to forms FL-100 and FL-120 to take effect on January 1, 2016, as the committee initially believed that the changes suggested to the forms were noncontroversial and would not require public comment. However, because the committee recognizes that "jurisdiction" is not a common term for self-represented litigants, it decided to seek comment from Family Law Facilitators, Self-Help Centers, attorneys, and other court professionals as to the proposed revised language.

The committee considered when to propose the changes to forms FL-100 and FL-120. For example, consideration was given about any potential legislation that would require other revisions to the forms in the near future. Having found none, the committee decided to submit this propose for the winter 2016 public comment cycle for an effective date of July 1, 2016.

Implementation Requirements, Costs, and Operational Impacts

The committee anticipates that this proposal will result in some costs incurred by the courts to revise forms, train court staff about the changes to the forms included in this proposal.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following issues about item 4 on *Petition—Marriage/Domestic Partnership* (form FL-100):

- Should the heading at item 4 should be changed as follows: “**Minor Children (children ~~born~~ conceived before (or born or adopted during) the marriage or domestic partnership)**”
- Are there any objections to revising item 4 to include the following statement below the list of children: “If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage.”

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

- Would the proposal provide cost savings? If so, please quantify.
- What are the implementation requirements for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Is the notice provided in plain language such that it will be accessible to a broad range of litigants, including self-represented litigants?

Attachments

Forms FL-100 and FL-120, at pages 4-9.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
PETITION FOR <input type="checkbox"/> AMENDED <input type="checkbox"/> Dissolution (Divorce) of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Legal Separation of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Nullity of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership	CASE NUMBER:

1. **LEGAL RELATIONSHIP** (check all that apply):
 - a. We are married.
 - b. We are domestic partners and our domestic partnership was established in California.
 - c. We are domestic partners and our domestic partnership was NOT established in California.

2. **RESIDENCE REQUIREMENTS** (check all that apply):
 - a. Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this *Petition*. (For a divorce, at least one person in the legal relationship described in items 1a and 1c must comply with this requirement.)
 - b. We are the same sex and were married in California but are not residents of California. Neither of us lives in a jurisdiction that will dissolve the marriage. This case is filed in the county in which we married.
 Petitioner's residence (specify): _____ Respondent's residence (specify): _____
 - c. Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.

3. **STATISTICAL FACTS**
 - a. (1) Date of marriage (specify): _____ (2) Date of separation (specify): _____
 (3) Time from date of marriage to date of separation (specify): _____ Years _____ Months
 - b. (1) Registration date of domestic partnership with the California Secretary of State or other state equivalent (specify below): _____
 (2) Date of separation (specify): _____
 (3) Time from date of registration of domestic partnership to date of separation (specify): _____ Years _____ Months

4. **MINOR CHILDREN** (children born before (or born or adopted during) the marriage or domestic partnership):
 - a. There are no minor children.
 - b. The minor children are:

<u>Child's name</u>	<u>Birthdate</u>	<u>Age</u>	<u>Sex</u>
(1) <input type="checkbox"/> continued on Attachment 4b .			
(2) <input type="checkbox"/> a child who is not yet born.			
 - c. If there are minor children of Petitioner and Respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105](#)) must be attached.
 - d. Petitioner and Respondent signed a voluntary declaration of paternity. A copy is is not attached.

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

Petitioner requests that the court make the following orders:

5. LEGAL GROUNDS (Family Code sections 2200–2210, 2310–2312)

- a. Divorce or Legal separation of the marriage or domestic partnership based on (*check one*):
 - (1) irreconcilable differences.
 - (2) permanent legal incapacity to make decisions.
- b. Nullity of void marriage or domestic partnership based on:
 - (1) incest.
 - (2) bigamy.
- c. Nullity of voidable marriage or domestic partnership based on:
 - (1) petitioner’s age at time of registration of domestic partnership or marriage.
 - (2) prior existing marriage or domestic partnership.
 - (3) unsound mind.
 - (4) fraud.
 - (5) force.
 - (6) physical incapacity.

6. CHILD CUSTODY AND VISITATION (PARENTING TIME)

- | | Petitioner | Respondent | Joint | Other |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Legal custody of children to..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Physical custody of children to..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Child visitation (parenting time) be granted to | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |
| As requested in: <input type="checkbox"/> form FL-311 <input type="checkbox"/> form FL-312 <input type="checkbox"/> form FL-341(C) | | | | |
| <input type="checkbox"/> form FL-341(D) <input type="checkbox"/> form FL-341(E) <input type="checkbox"/> Attachment 6c(1) | | | | |
| d. <input type="checkbox"/> Determine the parentage of children born to Petitioner and Respondent before the marriage or domestic partnership. | | | | |

7. CHILD SUPPORT

- a. If there are minor children born to or adopted by Petitioner and Respondent before or during this marriage or domestic partnership, the court will make orders for the support of the children upon request and submission of financial forms by the requesting party.
- b. An earnings assignment may be issued without further notice.
- c. Any party required to pay support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.
- d. Other (*specify*):

8. SPOUSAL OR DOMESTIC PARTNER SUPPORT

- a. Spousal or domestic partner support payable to Petitioner Respondent
- b. Terminate (end) the court’s ability to award support to Petitioner Respondent
- c. Reserve for future determination the issue of support payable to Petitioner Respondent
- d. Other (*specify*):

9. SEPARATE PROPERTY

- a. There are no such assets or debts that I know of to be confirmed by the court.
- b. Confirm as separate property the assets and debts in *Property Declaration* (form [FL-160](#)) [Attachment 9b](#)
 the following list. Item Confirm to

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

10. COMMUNITY AND QUASI-COMMUNITY PROPERTY

- a. There are no such assets or debts that I know of to be divided by the court.
- b. Determine rights to community and quasi-community assets and debts. All such assets and debts are listed
 - in *Property Declaration* (form [FL-160](#)) in [Attachment 10b](#).
 - as follows (*specify*):

11. OTHER REQUESTS

- a. Attorney's fees and costs payable by Petitioner Respondent
- b. Petitioner's former name be restored to (*specify*):
- c. Other (*specify*):

Continued on [Attachment 11c](#).

12. I HAVE READ THE RESTRAINING ORDERS ON THE BACK OF THE SUMMONS, AND I UNDERSTAND THAT THEY APPLY TO ME WHEN THIS PETITION IS FILED.

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 PETITIONER)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY FOR PETITIONER)

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL 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:	
PETITIONER: RESPONDENT:	
RESPONSE <input type="checkbox"/> AND REQUEST FOR <input type="checkbox"/> AMENDED <input type="checkbox"/> Dissolution (Divorce) of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Legal Separation of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Nullity of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership	CASE NUMBER:

1. **LEGAL RELATIONSHIP** (check all that apply):
 - a. We are married.
 - b. We are domestic partners and our domestic partnership was established in California.
 - c. We are domestic partners and our domestic partnership was NOT established in California.

2. **RESIDENCE REQUIREMENTS** (check all that apply):
 - a. Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this *Petition*. (For a *divorce*, at least one person in the legal relationship described in items 1a and 1c must comply with this requirement.)
 - b. We are the same sex and were married in California but are not residents of California. Neither of us lives in a jurisdiction that will dissolve the marriage. This case is filed in the county in which we married.
 Petitioner's residence (specify): _____ Respondent's residence (specify): _____
 - c. Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.

3. **STATISTICAL FACTS**
 - a. (1) Date of marriage (specify): _____ (2) Date of separation (specify): _____
 (3) Time from date of marriage to date of separation (specify): _____ Years _____ Months
 - b. (1) Registration date of domestic partnership with the California Secretary of State or other state equivalent (specify below): _____
 (2) Date of separation (specify): _____
 (3) Time from date of registration of domestic partnership to date of separation (specify): _____ Years _____ Months

4. **MINOR CHILDREN** (children born before (or born or adopted during) the marriage or domestic partnership):
 - a. There are no minor children.
 - b. The minor children are:

Child's name	Birthdate	Age	Sex

(1) continued on [Attachment 4b](#).
 (2) a child who is not yet born.

 - c. If there are minor children of Petitioner and Respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105](#)) must be attached.
 - d. Petitioner and Respondent signed a voluntary declaration of paternity. A copy is is not attached.

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

10. COMMUNITY AND QUASI-COMMUNITY PROPERTY

- a. There are no such assets or debts that I know of to be divided by the court.
- b. Determine rights to community and quasi-community assets and debts. All such assets and debts are listed
 - in *Property Declaration* (form [FL-160](#)) in [Attachment 10b](#).
 - as follows (*specify*):

11. OTHER REQUESTS

- a. Attorney's fees and costs payable by Petitioner Respondent
- b. Respondent's former name be restored to (*specify*):
- c. Other (*specify*):

Continued on [Attachment 11c](#).

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 RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

The original response must be filed in the court with proof of service of a copy on Petitioner.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Juvenile Law: Psychotropic Medication

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

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 RUPRO:

Project description from annual agenda: Provide subject matter expertise to the council by providing recommendations for rules and forms required by recent legislative changes as a result of Senate Bill 238 (Mitchell; Stats. 2015, ch. 534).

If requesting July 1 or out of cycle, explain:

SB 238 requires the Judicial Council to develop rules and forms to implement the bill's mandates by July 1, 2016.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Juvenile Law: Psychotropic Medication	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.640; approve forms JV-218, JV-219, JV-220(B), and JV-224; revise forms JV-220, JV-220(A), JV-221, JV-222 and JV-223; revise form JV-219-INFO and renumber as JV-217-INFO.	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Kerry Doyle, 415-865-8791 kerry.doyle@jud.ca.gov
Hon. Jerilyn Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending one rule, approving two optional forms and two mandatory forms, revising five forms, and revising and renumbering one form to conform to recent statutory changes to the requirements for court authorization of psychotropic medication for foster children enacted by Senate Bill 238 (Mitchell; Stats. 2015, ch. 534).

Background

As indicated in the legislative history for SB 238, in 1999, the Legislature passed SB 543 (Bowen, Ch. 552, Stats. 1999), which provided that only a juvenile court judicial officer has the authority to make orders regarding the administration of psychotropic medications for foster youth.¹ SB 543 also provided that the juvenile court may issue a specific order delegating this authority to a parent if the parent poses no danger to the child and has the capacity to authorize psychotropic medications. This legislation was passed in response to concerns that foster children were being subjected to excessive use of psychotropic medication, and that judicial oversight was needed to reduce the risk of unnecessary medication. The Judicial Council was required to adopt rules of court to implement the new requirement. Accordingly, Rule 5.640 specifies the process for juvenile courts to follow in authorizing the administration of

¹ Sen. Comm. on Jud., Analysis of Sen. Bill No. 238 (2014–2015 Reg. Sess.) April 7, 2015, pp. 1-2

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

psychotropic medications and permits courts to adopt local rules for the courts to use to further refine the approval process.

In 2004, the provisions of SB 543 were amended by AB 2502 (Keene, Ch. 329, Stats. of 2004), which required a judicial officer to approve or deny, in writing, a request for authorization to administer psychotropic medication, or set the matter for hearing, within seven days. This amendment was intended to ensure timely consideration of requests for authorization to administer psychotropic medication to dependent children.

Despite these measures, concerns remain that psychotropic medication is overused and underreported in the child welfare system. Senate Bill 238 is a comprehensive bill that seeks to address the issues related to the administration of psychotropic drugs in the foster care system by requiring additional training, oversight, and data collection by caregivers, courts, counties, and social workers. The bill also requires the Judicial Council, in consultation with other specified groups, to implement specified provisions of the bill.

The Proposal

Rule 5.640 would be amended; forms JV-218, JV-219, JV-220(B), and JV-224 would be approved; forms JV-220, JV-220(A), JV-221, and JV-223 would be revised; and form JV-219-INFO would be revised and renumbered to ensure they conform to the recently enacted provisions of Welfare and Institutions Code sections 369.5 and 739.5.²

The committee identified five main amendments to the Welfare and Institutions Code that require the Judicial Council to develop rules and forms.

Opportunity to provide input

Newly enacted sections 369.5(a)(2)(B)(i) and 739.5(a)(2)(B)(i) require the Judicial Council to develop rules and forms to ensure that the child and his or her caregiver and court appointed special advocate (CASA), if any, have an opportunity to provide input on the medications being prescribed. To implement this requirement, the committee proposes the following specific amendments to the California Rules of Court and Judicial Council forms:

- Amend rule 5.640(c) to require that the parents, caregivers, CASA, and the Indian child's tribe in the proceedings be served with a completed copy of *Prescribing Physician's Statement—Attachment* (form JV-220(A)), and proposed new *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) rather than merely a statement that a physician is asking to treat the child's emotional or behavioral problems with a specific named psychotropic medication and a statement that an application to do so is pending before the court.

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated. All further rule references are to the California Rules of Court unless otherwise indicated.

Under the current rule, the caregiver, CASA, parents, and Indian child's tribe receive only a statement that a physician is asking to treat the child's emotional or behavioral problems by beginning or continuing the administration of psychotropic medication, the name of the medication, and a statement that an *Application Regarding Psychotropic Medication* (form JV-220) and a *Prescribing Physician's Statement—Attachment* (form JV-220(A)) are pending before the court. The committee concluded that in order for the caregiver, CASA, and Indian child's tribe to provide meaningful input to the court, they needed to know what information was used as a basis for the proposed prescription and what alternatives, if any, could be tried in lieu of the proposed medication. By providing the full application rather than merely notice that it is pending, the caregiver, CASA, parents, and Indian child's tribe will have the information necessary to provide meaningful input to the court.

The committee also concluded that parents and an Indian child's tribe often have very important historical information and current observations regarding the child that are extremely helpful to the court. Thus, the committee concluded that parents and an Indian child's tribe should also be provided with the full application rather than mere notice that an application is pending. The committee discussed that at least one large court is continuing the hearing on the application and ordering that the department provide the parents with a copy of the full application. In courts that are continuing hearings for service of the full application, requiring service upfront would prevent delays.

- Amend rule 5.640(c) to allow the child, caregiver, CASA, parents, and Indian child's tribe to provide input to the court by the proposed new *Child's Statement Regarding Psychotropic Medication* (form JV-218) or *Statement Regarding Psychotropic Medication* (form JV-219); a letter; talking to the judge; or through the social worker, probation officer, lawyer, or CASA. Input from the CASA would also be allowed by a court report.

The committee concluded that the manner of providing input to the court should be that which is easiest for the person providing input. Therefore, rather than mandate the use of the new proposed forms, the committee decided the full array of ways to provide information to the court should be allowed.

- Approve for optional use *Child's Statement Regarding Psychotropic Medication* (form JV-218).

As indicated above, the committee concluded that the child should be able to provide input to the court in whatever way the child chooses to do so. In order to provide the child a streamlined way to address the court in writing, the committee proposes creating a new optional Judicial Council form that the child can fill out by themselves or with help.

- Approve for optional use *Statement Regarding Psychotropic Medication* (form JV-219).

As indicated above, the committee concluded that the caregiver and CASA should be able to provide input to the court in any way they choose to do so. In order to provide the a streamlined way to address the court in writing, the committee proposes creating a new optional Judicial Council form that can be filled out by the caregiver or CASA. As indicated above, the committee concluded that parents and an Indian child's tribe often have very important historical information and current observations regarding the child that are extremely helpful to the court and therefore, they can also use this form to provide input on the request to administer psychotropic medication.

- Approve for mandatory use *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) and amend rule 5.640(c) to add proposed new form JV-220(B) to the list of mandatory forms, and to require that the social worker or probation officer complete it, file it, and attach it to *Application Regarding Psychotropic Medication* (form JV-220).

The committee proposes a new mandatory form, *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) that would ask for a description of what is reported by the child and caregiver about taking the medication, including if it is a request to renew or modify medication, a description of what is reported by the child and caregiver regarding the benefit and side effects. The form would also require the social worker or probation officer to tell the judge how the child and caregiver wish to provide input on the medications being prescribed. The form would also require the social worker or probation officer to describe both pharmacological and nonpharmacological treatment alternatives, as well as therapeutic services, other than medication, in which the child is enrolled in or is recommended to participate in during the next six months.

- Revise *Application Regarding Psychotropic Medication* (form JV-220) to add to the instructions that the new proposed *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) must be included with the JV-220.
- Further amend rule 5.640(c) to require service of a blank *Child's Statement Regarding Psychotropic Medication* (form JV-218) or *Statement Regarding Psychotropic Medication* (form JV-219) or information about where to obtain a copy of the form when serving *Application Regarding Psychotropic Medication* (form JV-220) and attachments.
- Further amend rule 5.640(c) to require that *Child's Statement Regarding Psychotropic Medication* (form JV-218) and *Statement Regarding Psychotropic Medication* (form JV-219) be filed within four court days of notice of the application for psychotropic medication.

The committee proposes that the process for receiving and filing the new proposed input forms mirror the process for the existing *Opposition to Psychotropic Medication* (form

JV-222). Notice of a pending application currently requires the inclusion of a blank copy of form JV-222 or information on how to obtain a copy, and the form must be filed within four court days of notice of the application for psychotropic medication.

- Revise *Prescribing Physician's Statement* (form JV-220(A)) to ensure the child has an opportunity to provide input on the prescribed medication.

To help meet the mandate that the child has an opportunity to provide input on the medication being prescribed, the committee proposes eliminating the option for the prescribing physician to not inform the child of the request, the recommended medications, benefits, and side effects because the child is too young. The committee decided that even very young children can be told about recommended psychotropic medication in an age-appropriate manner. If the child is indeed too young for such an explanation, the “other” option would remain on the form and could be used for this purpose.

Assessment of overall mental health and treatment plan

Newly enacted sections 369.5(a)(2)(B)(ii)-(iii) and 739.5(2)(B)(ii)-(ii) require the Judicial Council to develop rules and forms to ensure that information regarding an assessment of the child's overall mental health and treatment plan, as well as information regarding the rationale for the proposed medication are provided to the court. To implement this requirement, the committee proposes the following specific amendments to the California Rules of Court and Judicial Council forms:

- Amend rule 5.640(c) to require that *Prescribing Physician's Statement—Attachment* (form JV-220(A)) include information regarding an assessment of the child's overall mental health and treatment plan, as well as information regarding the rationale for the proposed medication.

The committee concluded that the best person to provide the newly required information is the prescribing physician and that these requirements should be added to the existing mandatory *Prescribing Physician's Statement—Attachment* (form JV-220(A)).

- Revise *Prescribing Physician's Statement* (form JV-220(A)) to include the information required by SB 238.

The new code sections mandate that the request to the court include information on other pharmacological and nonpharmacological treatments that have been utilized and the child's response to those treatments, a discussion of symptoms not alleviated or ameliorated by other current or past treatment efforts, and an explanation of how the psychotropic medication being prescribed is expected to improve the child's symptoms. The committee concluded that the prescribing physician is in the best position to provide

this information to the court, and therefore proposes that these topics be added as questions on the form JV-220(A).

- Revise *Prescribing Physician's Statement* (form JV-220(A)) to separate out compound questions.

The committee recognized that many of the items in the form JV-220(A) asked multiple questions. In order to ensure that each question is answered in full, the committee proposes making each question a separate item. This would not result in a substantive change for the physician, but would make the form longer.

Procedure when request is missing information

Newly enacted sections 369.5(a)(2)(B)(iv) and 739.5(a)(2)(B)(iv) require the Judicial Council to develop rules and forms to address how to proceed if information, otherwise required to be included in a request for authorization, is not included in the request. To implement this requirement, the committee proposes the following specific amendments to the California Rules of Court and Judicial Council forms:

- Amend rule 5.640(c) to allow for a temporary order granting the application if all the required information is not included in the request for authorization.

The committee proposes amending rule 5.640(c)(14) to allow the court to temporarily grant the application for authorization for a period not to exceed 14 calendar days, or deny the application, and order the department to provide the required information.

- Further revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an order that the application is temporarily granted and that the department is ordered to resubmit the application with the missing information.

Periodic oversight

Newly enacted sections 369.5(a)(2)(C) and 739.5(2)(C) require the Judicial Council to develop rules and forms to include a process for periodic oversight by the court of orders regarding the administration of psychotropic medication. To implement this requirement, the committee proposes the following specific amendments to the California Rules of Court and Judicial Council forms:

- Approve for mandatory use *Report Regarding Psychotropic Medication—County Staff* (form JV-224).
- Amend rule 5.640(f) to require the social worker or probation officer to file a completed *Report Regarding Psychotropic Medication—County Staff* (form JV-224) at any scheduled psychotropic medication progress review hearing and each status review hearing.

Newly enacted sections 369.5(a)(2)(C) and 739.5(2)(C) require the Judicial Council to develop rules and forms to include a process for periodic oversight by the court of orders regarding the administration of psychotropic medication that includes the caregiver's and child's observations regarding the effectiveness of the medication, and side effects, information on medication management appointments, and other follow-up appointments with medical practitioners, and information on the delivery of other mental health treatments. The oversight process must be conducted in conjunction with other regularly scheduled court hearings and reports must be provided to the court by the county agency.

The committee proposes amending rule 5.640(f) and (g) to mandate progress reviews at every status review hearing and allow progress reviews at any other time at the court's discretion. The committee proposes that the option to present this information orally be eliminated from rule 5.640(f) and that rule 5.640(g) mandate the filing of the new proposed *Report Regarding Psychotropic Medication—County Staff* (form JV-224) at any scheduled psychotropic medication progress review hearing and each status review hearing. The committee concluded that having a written record of the progress reports was important, particularly if the regularly assigned judicial officer was not conducting the status review hearing.

- Revise *Prescribing Physician's Statement* (form JV-220(A)) to ensure the court has all the information needed to provide thorough periodic oversight of court ordered psychotropic medications.

The committee proposes that the physician must provide an explanation both when the child agrees to the proposed medication and when the child does not agree. Currently the form does not require an explanation if the child is agreeable. In order to determine, however, if the child truly agrees, and to what, an explanation from the physician would help the court in its oversight function.

To ensure the court can provide meaningful oversight, the committee also proposes the following changes to form JV-220(A):

- Add DSM-5 to item 16 as an option for basis of diagnosis.
- Mandate the information regarding laboratory tests performed or ordered—currently this is optional information—at item 18, and request information on frequency of tests and date of most recent test.
- Revise the item regarding therapeutic services to require the physician to indicate what therapeutic services the child “is enrolled in or is recommended to participate” during the next six months, rather than the services the child “will participate” in, since the physician cannot predict the services the child will actually participate in.
- Mandate information on administration schedule—currently this is optional information—at item 23.

- Add section to item 24 regarding reduction of medication. If the doctor is requesting to stop medication, he or she must also recommend if the medication is to be stopped immediately, or gradually reduced, and if so, for what period of time.

Providing court order to caregiver

Newly enacted sections 369.5(c)(2) and 739.5(c)(2) mandate that the child welfare agency, probation department, or other person or entity who submitted the request for authorization of psychotropic medication provide a copy of the court order approving or denying the request to the child’s caregiver. To implement this requirement, the committee proposes the following specific amendments to the California Rules of Court and Judicial Council forms:

- Amend rule 5.640 to require that the child welfare agency, probation department, or other person or entity who submitted the request for authorization of psychotropic medication provide a copy of the court order approving or denying the request to the child’s caregiver.

The committee proposes adding this requirement at subdivision (e) of rule 5.640 and requiring that the copy be provided in person or mailed within two days of when the order is made to ensure the caregiver receives the order promptly.

- Further revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an order regarding providing a copy of the order to the caregiver.

The committee proposes adding an order that the social worker, probation officer, or person who submitted the application must give a copy of the order to the child’s caregiver either in person or by mail within two days to form JV-223, at item 4.

While not mandated by SB 238, the committee proposes the following specific revisions to Judicial Council forms:

- Revise *Information About Psychotropic Medication Forms* (form JV-219-INFO) and *Proof of Notice: Application Regarding Psychotropic Medication* (form JV-221) to conform to changes to the new forms and procedures. Renumber form JV-219-INFO as JV-217-INFO.

Renumbering form JV-219-INFO as JV-217-INFO would place the form with information on the psychotropic medication request and approval process at the beginning of the series of psychotropic medication forms.

- Revise *Opposition to Application Regarding Psychotropic Medication* (form JV-222) so that it can be used to provide input to the court, even if the person using the form does not oppose the medication.

The committee proposes giving this form a new title, *Opposition to or Statement About Application Regarding Psychotropic Medication*, and adding an item indicating that the application is not opposed, but the person filling out the form wants to give information to the judicial officer. When this form last circulated for public comment, one commentator indicated that often children or children's attorneys want to give input on a request for psychotropic medication, but may not necessarily oppose it; another commentator made a similar statement regarding parents' input. That suggestion would have had to have been circulated for public comment, so the change was not made at that time. The committee, however, agrees with this suggestion and is now proposing that the form be revised so it can be used to provide input on the request. The committee also proposes adding an item so that the child's attorney can provide input on the request.

- Revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include the new forms in this proposal as evidence the court has read and considered.
- Further revise *Order Regarding Application for Psychotropic Medication* (form JV-223) to include an order about gradually reducing the psychotropic medication.

The committee proposes including a new order on form JV-223 that if an application to renew a current medication is denied, the social worker or probation officer must consult with the prescribing physician about whether the medication should stop immediately or gradually decrease over time.

Alternatives Considered

The committee considered renumbering the forms so that they were sequential and the numbers reflected the order the forms are actually filed. To do this, however, would require that the *Application for Psychotropic Medication* (form JV-220) be renumbered. Many jurisdictions use the form JV-220 as a term of art, however, referring to the psychotropic medication process as the "the JV-220" process. Because of this, and because the committee wanted the form to be easy to find, the committee numbered *Child's Statement Regarding Psychotropic Medication* as form JV-218 and *Statement Regarding Psychotropic Medication* as form JV-219.

The committee also considered having two separate *Statement Regarding Psychotropic Medication* forms, one for an initial request that addressed only the child's behaviors and description of current treatment, and a different form for a renewal request that addressed behaviors and treatment as well as the perceived benefits and side effects of the medication. The committee concluded that filling out the wrong form was likely, and if that happened, the judicial officer would not have all the necessary information when deciding a renewal request. The committee therefore decided to make one form, with instructions on which items to answer depending on the type of request made.

Given the committee's proposal that notice of an application for psychotropic medication include a copy of *Prescribing Physician's Statement* (form JV-220(A)) and *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)), the committee considered providing notice to a child's Indian tribe only if the tribe had intervened in the juvenile court proceeding. From a best practice perspective, however, the committee concluded that an Indian child's tribe should be notified in advance of an application to administer psychotropic medication to avoid a situation in which the tribe later intervenes after medication is administered. From a treatment perspective, the tribe may have important information about the child's and his or her family's medical history, as well as resources such as culturally appropriate services, relevant to the diagnosis and treatment.

Implementation Requirements, Costs, and Operational Impacts

The proposed notice requirements will impact courts and the person or persons responsible for providing notice under local court rules or local practice protocols. The proposal includes an added requirement that notice include copies of *Prescribing Physician's Statement—Attachment* (form JV-220(A)) and *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)). Providing notice with additional documents will likely result in minimal implementation costs and a slight increase in workload for the person or persons providing notice to the parties and attorneys. In implementing the revised forms, courts will incur standard reproduction costs.

By requiring increased information in the *Prescribing Physician's Statement* (form JV-220(A)) and mandating additional information by the new proposed *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) this proposal could reduce delays in obtaining orders for psychotropic medications, and could reduce the number of hearings a judicial officer must set to obtain the information necessary to make an informed decision on the request to administer psychotropic medication.

Requiring social workers and probation officers to complete *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) and *Report Regarding Psychotropic Medication—County Staff* (form JV-224) will result in slight implementation costs and will increase workload. The committee, however, feels the information requested in these forms is critical to meet the mandates of SB 238.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should a copy of *Prescribing Physician's Statement* (form JV-220(A)) and *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) be included with notice that an application to administer psychotropic medication is pending before the court?
- If a copy of *Prescribing Physician's Statement* (form JV-220(A)) *Social Worker or Probation Officer's Statement—Attachment* (form JV-220(B)) is included with notice that an application to administer psychotropic medication is pending before the court, should they be provided to a tribe that has acknowledged the Indian child as a member of, or eligible for membership in, the tribe and to a tribe that has intervened in the juvenile court proceeding, or just to a tribe that has intervened in the juvenile court proceeding?
- Which is the best method for providing additional information when there is not enough space on the form? Should the forms request that an additional piece of paper with a title be attached as on proposed *Statement Regarding Psychotropic Medication* (form JV-219), should the forms indicate in the instructions that if extra space is needed, for any of the items, write the item number and additional information on the last page of the form and if more space is needed than the last page, attach a sheet or sheets of paper as on proposed *Report Regarding Psychotropic Medication—County Staff* (form JV-224), or is there a better method that is both user-friendly and will limit the number of attachments?
- Should proposed *Statement Regarding Psychotropic Medication* (form JV-219) include after each question a check box and opportunity for the person filling out the form to indicate "I do not know"?

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

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

Attachments and Links

1. Proposed Cal. Rules of Court, rule 5.640, attached at pages 12-18
2. Proposed forms JV-217-INFO, JV-218, JV-219, JV-220, JV-220(A), JV-220(B), JV-221, JV-222, JV-223, and JV-224, attached at pages 19-48
3. Senate Bill 238,

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB238

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 **Rule 5.640. Psychotropic medications**

2
3 (a) – (b) ***

4
5 (c) **Procedure to obtain authorization**

6
7 (1) *Application Regarding Psychotropic Medication* (form JV-220), *Prescribing*
8 *Physician’s Statement—Attachment* (form JV-220(A)), *and Social Worker or*
9 *Probation Officer’s Statement—Attachment* (form JV-220(B)), *Proof of*
10 *Notice: Application Regarding Psychotropic Medication* (form JV-221),
11 *Opposition to or Statement About Application Regarding Psychotropic*
12 *Medication* (form JV-222), and *Order Regarding Application for*
13 *Psychotropic Medication* (form JV-223) must be used to obtain authorization
14 to administer psychotropic medication to a dependent child of the court who
15 is removed from the custody of the parents or guardian, or to a ward of the
16 court who is removed from the custody of the parents or guardian and placed
17 into foster care.

18
19 (2) The child, caregiver, parents, and Court Appointed Special Advocate, if any,
20 may provide input on the medications being prescribed. Input may be
21 provided by *Child’s Statement Regarding Psychotropic Medication* (form
22 JV-217) or *Statement Regarding Psychotropic Medication* (form JV-218);
23 letter; talking to the court; or through the social worker, probation officer,
24 attorney of record, or Court Appointed Special Advocate. Input from a Court
25 Appointed Special Advocate may also be provided by a court report.

26
27 ~~(2)~~(3) Additional information may be provided to the court through the use of local
28 forms that are consistent with this rule.

29
30 ~~(3)~~(4) Local county practice and local rules of court determine the procedures for
31 completing and filing the forms and for the provision of notice, except as
32 otherwise provided in this rule. The person or persons responsible for
33 providing notice as required by local court rules or local practice protocols
34 are encouraged to use the most expeditious manner of service possible to
35 ensure timely notice.

36
37 ~~(4)~~(5) An application must be completed and presented to the court, using
38 *Application Regarding Psychotropic Medication* (form JV-220), ~~and~~
39 *Prescribing Physician’s Statement—Attachment* (form JV-220(A), and
40 *Social Worker or Probation Officer’s Statement—Attachment* (form JV-
41 220(B)). The court must approve, deny, or set the matter for a hearing within
42 seven court days of the receipt of the completed application.

43
44 ~~(5)~~(6) *Application Regarding Psychotropic Medication* (form JV-220) may be
45 completed by the prescribing physician, medical office staff, child welfare
46 services staff, probation officer, or the child’s caregiver. The physician

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 prescribing the administration of psychotropic medication for the child must
2 complete and sign *Prescribing Physician's Statement—Attachment* (form JV-
3 220(A)).

4
5 ~~(6)~~(7) *Prescribing Physician's Statement—Attachment* (form JV-220(A)) must
6 include all of the following:

7
8 (A) The diagnosis of the child's condition that the physician asserts can be
9 treated through the administration of the medication;

10
11 (B) The specific medication recommended, with the recommended
12 maximum daily dosage and length of time this course of treatment will
13 continue and the administration schedule including initial and target
14 schedule for new medication, the current schedule for continuing
15 medication, the recommended dosage and number of doses per day,
16 and, if *pro re nata* (PRN), or as needed the conditions and parameters
17 for use;

18
19 (C) An assessment of the child's overall mental health;

20
21 (D) A description of the child's symptoms and treatment plan;

22
23 (E) A description of other pharmacological and nonpharmacological
24 treatments that have been utilized and the child's response to those
25 treatments;

26
27 (F) A description of symptoms not alleviated or ameliorated by other
28 current or past treatment efforts;

29
30 ~~(C)~~(G) ~~The anticipated benefits to the child of the use of the medication~~ An
31 explanation of how the medication is expected to improve the child's
32 symptoms;

33
34 ~~(D)~~(H) A description of possible side effects of the medication;

35
36 ~~(E)~~(I) A list of any other medications, prescription or otherwise, that the child
37 is currently taking, and a description of any effect these medications
38 may produce in combination with the psychotropic medication;

39
40 ~~(F)~~(J) A description of any other therapeutic services related to the child's
41 mental health status; and

42
43 ~~(G)~~(K) A statement that the child has been informed in an age-appropriate
44 manner of the recommended course of treatment, the basis for it, and its
45 possible results. The child's response and an explanation must be
46 included.

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1
2 (8) The social worker or probation officer must complete and sign *Social Worker*
3 *or Probation Officer's Statement—Attachment* (form JV-220(B)), and attach
4 it to *Application Regarding Psychotropic Medication* (form JV-220),
5

6 ~~(7)~~(9) Notice must be provided to the parents or legal guardians, their attorneys of
7 record, the child's attorney of record, the child's Child Abuse Prevention and
8 Treatment Act guardian ad litem, the child's current caregiver, the child's
9 Court Appointed Special Advocate, if any, and where a child has been
10 determined to be an Indian child, the Indian child's tribe (see also 25 U.S.C.
11 § 1903(4)–(5); Welf. and Inst. Code, §§ 224.1(a) and (e) and 224.3).
12

13 Notice must be provided as follows:

14
15 (A) Notice to the parents or legal guardians and their attorneys of record
16 must include:

17
18 (i) A statement that a physician is asking to treat the child's
19 emotional or behavioral problems by beginning or continuing the
20 administration of psychotropic medication to the child and the
21 name of the psychotropic medication;
22

23 (ii) A statement that an *Application Regarding Psychotropic*
24 *Medication* (form JV-220) and a *Prescribing Physician's*
25 *Statement—Attachment* (form JV-220(A)) are pending before the
26 court;
27

28 ~~(iii)~~ (iii) A completed copy of *Prescribing Physician's Statement—*
29 *Attachment* (form JV-220(A)) ;
30

31 ~~(iv)~~ (iv) A completed copy of *Social Worker or Probation Officer's*
32 *Statement—Attachment* (form JV-220(B));
33

34 ~~(v)~~ (v) A copy of *Information About Psychotropic Medication Forms*
35 (form ~~JV-219-INFO~~ JV-217-INFO) or information on how to
36 obtain a copy of the form; and
37

38 ~~(vi)~~ (vi) A blank copy of *Opposition to or Statement About Application*
39 *Regarding Psychotropic Medication* (form JV-222) or
40 information on how to obtain a copy of the form.
41

42 (B) Notice to the child's current caregiver and Court Appointed Special
43 Advocate, if one has been appointed, must include ~~only~~:

44
45 (i) A statement that a physician is asking to treat the child's
46 emotional or behavioral problems by beginning or continuing the

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

- 1 administration of psychotropic medication to the child and the
2 name of the psychotropic medication; ~~and~~
3
4 (ii) A statement that an *Application Regarding Psychotropic*
5 *Medication* (form JV-220) and a *Prescribing Physician's*
6 *Statement—Attachment* (form JV-220(A)) are pending before the
7 court;
8
9 (iii) A completed copy of *Prescribing Physician's Statement—*
10 *Attachment* (form JV-220(A));
11
12 (iv) A completed copy of *Social Worker or Probation Officer's*
13 *Statement—Attachment* (form JV-220(B)); and
14
15 (iv) A blank copy of *Statement Regarding Psychotropic Medication,*
16 (form JV-218) or information on how to obtain a copy of the
17 form.
18
19 (C) Notice to the child's attorney of record and any Child Abuse Prevention
20 and Treatment Act guardian ad litem for the child must include:
21
22 (i) A completed copy of ~~the~~ *Application Regarding Psychotropic*
23 *Medication* (form JV-220);
24
25 (ii) A completed copy of ~~the~~ *Prescribing Physician's Statement—*
26 *Attachment* (form JV-220(A));
27
28 (iii) A completed copy of *Social Worker or Probation Officer's*
29 *Statement—Attachment* (form JV-220(B));
30
31 ~~(iii)~~(iv) A copy of *Information About Psychotropic Medication Forms*
32 (form ~~JV-219-INFO~~ JV-217-INFO) or information on how to
33 obtain a copy of the form; ~~and~~
34
35 ~~(iv)~~(v) A blank copy of *Opposition to or Statement About Application*
36 *Regarding Psychiatric Medication* (form JV-222) or information
37 on how to obtain a copy of the form; ~~and~~
38
39 (vi) A blank copy of *Child's Statement Regarding Psychotropic*
40 *Medication*(form JV-218) or information on how to obtain a copy
41 of the form.
42
43 (D) Notice to the Indian child's tribe must include:
44
45 (i) A statement that a physician is asking to treat the child's
46 emotional or behavioral problems by beginning or continuing the

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

- 1 administration of psychotropic medication to the child, and the
2 name of the psychotropic medication;
3
- 4 (ii) A statement that an *Application Regarding Psychotropic*
5 *Medication* (form JV-220) and a *Prescribing Physician’s*
6 *Statement—Attachment* (form JV-220(A)) are pending before the
7 court;
8 (iii) A completed copy of *Prescribing Physician’s Statement—*
9 *Attachment* (form JV-220(A));
10
11 (iv) A completed copy of *Social Worker or Probation Officer’s*
12 *Statement—Attachment* (form JV-220(B));
13
14 ~~(iii)~~(v) A copy of *Information About Psychotropic Medication Forms*
15 (form ~~JV-219 INFO~~ JV-217 INFO) or information on how to
16 obtain a copy of the form; ~~and~~
17
18 ~~(iv)~~(vi) A blank copy of *Opposition to or Statement About Application*
19 *Regarding Psychotropic Medication* (form JV-222) or
20 information on how to obtain a copy of the form; and
21
22 ~~(vi)~~(vii) A blank copy of *Statement Regarding Psychotropic*
23 *Medication*, (form JV-218) or information on how to obtain a
24 copy of the form.
25
26
27 (E) Proof of notice of the application regarding psychotropic medication
28 must be filed with the court using *Proof of Notice: Application*
29 *Regarding Psychotropic Medication* (form JV-221).
30
- 31 ~~(8)~~(10) A parent or guardian, his or her attorney of record, a child’s attorney of
32 record, a child’s Child Abuse Prevention and Treatment Act guardian ad
33 litem appointed under rule 5.662 of the California Rules of Court, or the
34 Indian child’s tribe that is opposed to the administration of the proposed
35 psychotropic medication must file a completed *Opposition to or Statement*
36 *About Application Regarding Psychotropic Medication* (form JV-222) within
37 four court days of service of notice of the pending application for
38 psychotropic medication.
39
- 40 (11) A child can file a completed *Child’s Statement Regarding Psychotropic*
41 *Medication* (form JV-218). If form JV-218 is filed, it must be filed within
42 four court days of service of notice of the pending application for
43 psychotropic medication.
44
- 45 (12) A child’s caregiver, parents, or Court Appointed Special Advocate can file
46 *Statement Regarding Psychotropic Medication* (form JV-219). If form JV-

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 219 is filed, it must be filed within four court days of service of notice of the
2 pending application for psychotropic medication.
3

4 (13) A child's Court Appointed Special Advocate can file a court report under
5 local rule.
6

7 (14) If all the required information is not included in the request for authorization,
8 the court can temporarily grant the application for authorization for a period
9 not to exceed 14 calendar days or deny the application, and order the
10 department to provide the required information.
11

12 ~~(9)~~(15) The court may grant the application without a hearing or may set the matter
13 for hearing at the court's discretion. If the court sets the matter for a hearing,
14 the clerk of the court must provide notice of the date, time, and location of
15 the hearing to the parents or legal guardians, their attorneys of record, the
16 dependent child if 12 years of age or older, a ward of the juvenile court of
17 any age, the child's attorney of record, the child's current caregiver, the
18 child's social worker or probation officer, the social worker's or probation
19 officer's attorney of record, the child's Child Abuse Prevention and
20 Treatment Act guardian ad litem, the child's Court Appointed Special
21 Advocate, if any, and the Indian child's tribe at least two court days before
22 the hearing. Notice must be provided to the child's probation officer and the
23 district attorney, if the child is a ward of the juvenile court.
24

25 **(d) Conduct of hearing on application**
26

27 At the hearing on the application, the procedures described in rule 5.570 must be
28 followed. The court may deny, grant, or modify the application for authorization,
29 ~~and may~~ If the court grants or modifies the application for authorization, the court
30 must set a date for review of the child's progress and condition. This review must
31 occur at every status review hearing and may occur at any other time at the court's
32 discretion.
33

34 **(e) *****
35

36 **(f) Continued treatment**
37

38 If the court grants the request or modifies and then grants the request, the order for
39 authorization is effective until terminated or modified by court order or until 180
40 days from the order, whichever is earlier. ~~If a progress review is set, it may be by~~
41 ~~an appearance hearing or a report to the court and parties and attorneys, at the~~
42 ~~discretion of the court.~~
43

44 **(g) Progress review**
45

Rule 5.640 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 (1) A progress review must occur at every status review hearing and may occur at
2 any other time at the court’s discretion.

3
4 (2) Before each progress review the social worker or probation officer must file a
5 completed *Report Regarding Psychotropic Medication—County Staff* (form JV-
6 224). If the progress review is set at the same time as a status review hearing, form
7 JV-224 must be attached to and filed with the report at least ten calendar days
8 before the hearing.

9
10 **(h) Copy of order to caregiver**

11 Upon the approval or denial of the application, including the temporary approval or
12 denial, the county child welfare agency, probation department, or other person or
13 entity who submitted the request must provide a copy of the court order approving
14 or denying the request to the child’s caregiver. The copy must be provided in
15 person or mailed within two days of when the order is made.

16
17 **(g)(i) *****

18
19 **(h)(j) Section 601–602 wardships; local rules**

20
21 A local rule of court may be adopted providing that authorization for the
22 administration of such medication to a child declared a ward of the court under
23 sections 601 ~~and~~ or 602 and removed from the custody of the parent or guardian for
24 placement in a facility that is not considered a foster-care placement may be
25 similarly restricted to the juvenile court. If the local court adopts such a local rule,
26 then the procedures under this rule apply; any reference to social worker also
27 applies to probation officer.
28

JV-217-INFO Information About Psychotropic Medication Forms

Use the Judicial Council forms listed below when requesting an order regarding psychotropic medication. Local forms may be used to provide additional information to the court.

JV-218, *Child's Statement Regarding Psychotropic Medication*

JV-219, *Statement Regarding Psychotropic Medication*

JV-220, *Application Regarding Psychotropic Medication*

JV-220(A), *Prescribing Physician's Statement—Attachment*

JV-220(B), *Social Worker or Probation Officer's Statement—Attachment*

JV-221, *Proof of Notice: Application Regarding Psychotropic Medication*

JV-222, *Opposition to or Statement About Application Regarding Psychotropic Medication*

JV-223, *Order Regarding Application for Psychotropic Medication*

JV-224, *Report Regarding Psychotropic Medication—County Staff*

General Instructions

- ① Use psychotropic medication forms when a child is under the jurisdiction of the juvenile court and living in an out-of-home placement and the child's physician is asking for an order:
 - a. giving permission for the child to receive a psychotropic medication that is not currently authorized *or*
 - b. renewing an order for a psychotropic medication that was previously authorized for the child because the order is due to expire.
- ② Use of the JV-220, JV-220(A), JV220(B), JV-221, JV-223, and JV-224 forms is mandatory for a child who is a dependent of the juvenile court and living in an out-of-home placement. Use of the JV-218 and JV-219 forms is optional.
- ③ Use of the JV-220, JV-220(A), JV220(B), JV-221, JV-223, and JV-224 forms is mandatory for a child who is a ward of the juvenile court and living in a foster care placement, as defined in Welfare and Institutions Code section 727.4. Use of the JV-218 and JV-219 forms is optional.
- ④ Use of the forms is optional for a child who is a ward of the juvenile court and living in an out-of-home facility that is not considered a foster care placement as defined in Welfare and Institutions Code section 727.4, unless use of the forms is required by a local rule of court.
- ⑤ Use of the forms is not required if the court has previously entered an order giving the child's parent the authority to approve or deny the administration of psychotropic medication to the child.
- ⑥ Form JV-220(A), *Prescribing Physician's Statement—Attachment*, must be completed and signed by the prescribing physician and forwarded to the person responsible for completing Form JV-220, *Application Regarding Psychotropic Medication*, as provided for in local court rules or local practice protocols. The completed JV-220(A), with all its attachments, must be attached to JV-220 when it is filed with the court.
- ⑦ Form JV- 220(B), *Social Worker or Probation Officer's Statement --Attachment*, must be completed and signed by the social worker or probation officer and must be attached to JV-220 when it is filed with the court.
- ⑧ The person or persons responsible for providing notice under local court rules or local practice protocols must complete, sign, and file with the court Form JV-221, *Proof of Notice: Application Regarding Psychotropic Medication*.

JV-220, *Application Regarding Psychotropic Medication*

- ① This form gives the court basic information about where the child lives and whether the current situation has caused the child to be moved to a temporary location such as a psychiatric hospital, a juvenile hall, a shelter home, or respite care. It also provides the name and contact information for the child's social worker or probation officer.
- ② This form may be completed by the prescribing physician, the medical office staff, the child welfare services staff, the probation department staff, or the child's caregiver. If completed by a staff person from the medical office, the child welfare services agency, the probation department, or the child's caregiver, he or she must check the appropriate box, type or print his or her name, and sign the form. If completed by the prescribing physician, he or she must check the appropriate box and complete and sign Form JV-220(A).



JV-220(A), Prescribing Physician's Statement—Attachment

- ① This form must be completed and signed by the prescribing physician, who must provide information related to the administration of the psychotropic medication, including the child's diagnosis, relevant medical history, other therapeutic services, the psychotropic medication to be administered, and the basis for the psychotropic medication recommendation.
- ② Prior court authorization must be obtained before a psychotropic medication not currently authorized is given to a child except in an emergency situation. An emergency situation occurs when a physician finds that the child requires psychotropic medication because of a mental condition and the purpose of the medication is to protect the life of the child or others, prevent serious harm to the child or others, or treat current or imminent substantial suffering and it is impractical to obtain prior authorization from the court. Court authorization must be sought as soon as practical but never more than two court days after the emergency administration of the psychotropic medication.

JV-220(B), Social Worker or Probation Officer's Statement—Attachment

- ① This form must be completed and signed by the social worker or probation officer, who must provide information related to what the child and caregiver report about the taking the medication and how the child and caregiver want to provide input on the medication being prescribed.

JV-221, Proof of Notice: Application Regarding Psychotropic Medication

- ① This form provides verification of the notice required by rule 5.640 of the California Rules of Court.
- ② This form must be completed and signed by the person or persons responsible for providing notice as required by local court rules or local practice protocols. A separate signature line is provided on each page of the form to accommodate those courts in which the provision of notice is shared between agencies—for example, when local court rule or local practice protocol requires the child welfare services agency to provide notice to the parent or legal guardian and the caregiver and the juvenile court clerk's office to provide notice to the attorneys and CASA volunteer. If one agency does all the required noticing, only one signature is required on page 3 of the form.
- ③ The person or persons responsible for providing notice as required by local court rules or local practice protocols is encouraged to use the most expeditious manner of service possible to ensure timely notice.
- ④ Notice may be given by electronic service only with the prior authorization of the person to be served and in compliance with the requirements of section 1010.6 of the Code of Civil Procedure.

JV-222, Opposition to or Statement About Application Regarding Psychotropic Medication

- ① This form must be used when the parent or guardian, the attorney of record for a parent or guardian, the child, the child's attorney, the child's CAPTA guardian ad litem, or the Indian child's tribe does not agree that the child should take the recommended psychotropic medication. This form may also be used to provide input to the court.
- ② Within four court days of service of notice of the pending application regarding psychotropic medication, the parent or guardian, his or her attorney, the child, the child's attorney, the child's CAPTA guardian ad litem, or the Indian child's tribe that disagrees must complete, sign, and file Form JV-222 with the clerk of the juvenile court.
- ③ The court will make a decision about the child's psychotropic medication after reading the application and its attachments and any opposition, JV-218, or JV-219 filed on time. The court is not required to set a hearing when an opposition is filed. If the court does set the matter for a hearing, the juvenile court clerk must provide notice of the date, time, and location of the hearing to the parents or legal guardians, their attorneys, the child if 12 years of age or older, the child's attorney, the child's current caregiver, the child's social worker, the social worker's attorney, the child's CAPTA guardian ad litem, the child's CASA, if any, and the Indian child's tribe at least two court days before the date set for the hearing. In delinquency matters, the clerk also must provide notice to the child regardless of his or her age, the child's probation officer, and the district attorney.

JV-223, Order Regarding Application for Psychotropic Medication

This form contains the court's findings and orders about psychotropic medications.

JV-218

Child's Statement Regarding Psychotropic Medication

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:

This form is for you to tell the court how you feel about the request for the court to order medication for you. If you are helping the child make a statement to the court, read this form to the child.

1 Child's name: _____

2 Child's date of birth: _____

- 3 a. I am aware I have been prescribed medication
- b. I am not aware I have been prescribed medication

4 a. I have been told about how the medication is supposed to help me. I was told _____

b. I have been told about how the medication is supposed to help me, but I feel the information about how the medication is supposed to help me is private.

c. I have not been told how the medication is supposed to help me.

5 a. I have been told about potential side effects. I was told _____

b. I have not been told about potential side effects.

6 a. I agree with taking the medication

b. I disagree with taking the medication because

c. I need to know more to decide if I want to take the medication.



Case Number: _____

Child's name: _____

If you are currently taking medication answer questions 7 and 8. If you are not taking medication, skip to questions 9-11.

- 7 a. I am having side effects from the medication. The side effects are:
 - Weight gain
 - Weight loss
 - Headache
 - Nausea
 - Difficulty sleeping
 - Excessive sleepiness
 - Other (specify):
 - Other (specify):
 - Other (specify):
 - Other (specify):

b. I am not having side effects from the medication (skip question 10)

8 a. I have told Dr. _____ about the side effects I am having.

b. I have not told a doctor about the side effects I am having.

9 What else do you want the judge to know?

Check here if you need more space. Attach a sheet of paper and write "JV-217, number 9" for a title.

10 I filled this form out by myself with help.

11 I helped the child fill out this form. I am

- the social worker
- the probation officer
- the caregiver
- other (specify):

Date:

Type or print name of person filling out form

Signature of person filling out form

JV-219

Statement Regarding Psychotropic Medication

Clerk stamps date here when form is filed.

This form is for you to tell the court how you feel about the request for the court to order medication. If this is an initial request and the child is not currently taking psychotropic medication, fill out items 1-13. If the child is currently taking psychotropic medication, fill out items 1-23.

1 Child's name: _____

2 Your name and relation to child: _____

3 How long have you known the child?
_____ years _____ months _____ days

4 What is the child's behavior like at home?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 4" for a title.

5 What is the child's behavior like at school?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 5" for a title.

6 How does the child interact with his or her peers?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 6" for a title.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:



Child's name: _____

7 How does the child interact with adults?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 7" for a title.

8 How is the child sleeping, and for how long?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 8" for a title.

9 What type of counseling is the child receiving and how often? (ex. Individual counseling; group counseling)

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 9" for a title.

10 What other medications does the child regularly take?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 10" for a title.

11 Were you able to meet with and provide information to the prescribing physician?
 Yes No

12 Were you informed of the recommended medications, the anticipated benefits, and the possible adverse reactions?
 Yes No



Case Number:

Child's name: _____

13 What else do you want the judge to know?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 13" for a title.

If the child is not currently taking psychotropic medication, you are done filling out this form. If the child is taking psychotropic medication, fill out items 14-23.

14 How is the medication affecting school and/or learning?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 14" for a title.

15 How is the medication affecting ability to concentrate?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 15" for a title.

16 Does the child have appropriate energy levels throughout the day?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 16" for a title.



Case Number:

Child's name: _____

17 How is the medication affecting the child's participation in hobbies and/or after school activities?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 17" for a title.

18 Has the child lost or gained weight while on the medication? Yes No

a. weight loss pounds: _____

b. weight gain pounds: _____

19 Does the child willingly take the medication or is it a struggle?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 19" for a title.

20 Is someone talking regularly with the child about how he or she feels when on this medication?

Yes No

If yes, who:

21 What are the side effects, if any?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 21" for a title.

Case Number:

Child's name: _____

22 What are the benefits, if any?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 22" for a title.

23 What else do you want the judge to know that is not on this form?

Check here if you need more space. Attach a sheet of paper and write "JV-219, number 23" for a title.

Clerk stamps date here when form is filed.

DRAFT

**Not approved by
the Judicial
Council**

A completed and signed JV-220(A), *Prescribing Physician's Statement—Attachment*, with all its attachments and a completed and signed *Social Worker or Probation Officer's Statement* (JV-220(B)) must be attached to this form before it is filed with the court. Read JV-217-INFO, *Information About Psychotropic Medication Forms*, for more information about the required forms and the application process.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:

1 Information about where the child lives:

- a. The child lives with a relative in a foster home
 - with a nonrelative extended family member
 - in a level 1-11 group home in a level 12-14 group home
 - at a juvenile custodial facility
 - other (*specify*): _____

b. If applicable, name of facility where child lives: _____

c. Contact information for responsible adult where child lives:

- (1) Name:
- (2) Phone:

d. Child was placed at placement in (a) on (*insert date*): _____

2 Information about the child's current location:

- a. The child remains at the location identified in **1**.
- b. The child is currently staying in:
 - (1) a psychiatric hospital (*name*):
 - (2) a juvenile hall (*name*):
 - (3) other (*specify*):

3 Child's social worker probation officer

- a. Name:
- b. Address:
- c. Phone: _____ Fax: _____

4 Number of pages attached:

Date:

Prescribing physician (*sign on page 3 of JV-220(A)*)

Type or print name of person completing this form

Signature

- Child welfare services staff (*sign above*)
- Probation department staff (*sign above*)
- Medical office staff (*sign above*)
- Caregiver (*sign above*)
- Prescribing physician (*sign on page 3 of JV-220(A)*)

JV-220(A)

Prescribing Physician's Statement—Attachment

Case Number:

This form must be completed and signed by the prescribing physician. Read JV-217-INFO, *Information About Psychotropic Medication Forms*, for more information about the required forms and the application process.

1 Information about the child (*name*): _____
Date of birth: _____ Current height: _____ Current weight: _____
Gender: _____ Ethnicity: _____

2 Type of request:
a. An initial request to administer psychotropic medication to this child
b. A request to modify psychotropic medication the child is currently taking
c. A request to continue psychotropic medication the child is currently taking

3 This application is made during an emergency situation. The emergency circumstances requiring the temporary administration of psychotropic medication pending the court's decision on this application are:

4 Prescribing physician:
a. Name: _____ License number: _____
b. Address: _____
c. Phone numbers: _____
d. Medical specialty of prescribing physician:
 Child/adolescent psychiatry General psychiatry Family practice/GP Pediatrics
 Other (*specify*): _____

5 This request is based on a face-to-face clinical evaluation of the child by:
a. the prescribing physician on (*date*): _____
b. other (*provide name, professional status, and date of evaluation*): _____

6 Information about child provided to the prescribing physician by (*check all that apply*):
 child caregiver teacher social worker probation officer parent
 records (*specify*): _____
 other (*specify*): _____

7 How long have you been treating the child? _____ years _____ months _____ days

8 In what capacity have you been treating the child?



Case Number: _____

Child's name: _____

9 Provide to the court your assessment of the child's overall mental health.

10 Describe the child's symptoms, including duration, and the child's treatment plan.

11 Describe the child's response to any current psychotropic medication.

12 Nonpharmacological treatment alternatives

a. Describe nonpharmacological treatment alternatives to the proposed administration of psychotropic medication that have been tried with the child in the last six months.

b. Describe the child's response to the nonpharmacological treatments in (a).



Case Number: _____

Child's name: _____

c. If no nonpharmacological alternatives have been tried, explain the reasons for not doing so.

13 Pharmacological treatment alternatives

a. Describe other pharmacological alternatives to the medication you are prescribing that have been tried with the child in the last six months.

b. Describe the child's response to the pharmacological treatments in (a).

c. If no pharmacological alternatives have been tried, explain the reasons for not doing so.

d. List the psychotropic medications that you know were taken by the child in the past and the reason or reasons these were stopped if the reasons are known to you.

<i>Medication name (generic or brand)</i>	<i>Reason for stopping</i>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



Child's name: _____

14 Describe the symptoms not alleviated or ameliorated by other current or past treatment efforts.

15 Describe how the medication being prescribed is expected to improve the child's symptoms.

16 Diagnoses from *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) or Fifth Edition (DSM-5)* (provide full Axis I and Axis II diagnoses; inclusion of numeric codes is optional):

17 Therapeutic services, other than medication, in which the child is enrolled in or is recommended to participate during the next six months (*check all that apply; include frequency for group therapy and individual therapy*):
a. Group therapy: _____ b. Individual therapy: _____
c. Milieu therapy (*explain*): _____
d. Other modality (*explain*): _____

18 a. Relevant medical history (*describe, specifying significant medical conditions, all current nonpsychotropic medications, date of last physical examination, and any recent abnormal laboratory results*):



Child's name: _____

18 b. Relevant laboratory tests performed or ordered (*specify frequency and date of most recent test*):

- kidney function: _____
- liver function: _____
- thyroid function: _____
- UA: _____
- glucose: _____
- lipid panel: _____
- CBC: _____
- EKG: _____
- pregnancy: _____
- medication blood levels (*specify*): _____
- other (*specify*): _____

19 **Mandatory Information Attached:** Significant side effects, warnings/contraindications, drug interactions (including those with continuing psychotropic medication and all nonpsychotropic medication currently taken by the child), and withdrawal symptoms for each recommended medication are included in the attached material.

20 a. The child was told in an age-appropriate manner about the recommended medications, the anticipated benefits, the possible side effects and that a request to the court for permission to begin and/or continue the medication will be made and that he or she may oppose the request. The child's response was

- agreeable not agreeable

Explain: _____

b. The child has not been informed of this request, the recommended medications, their anticipated benefits, and their possible adverse reactions because:

- (1) the child lacks the capacity to provide a response (*explain*): _____
- (2) other (*explain*): _____

21 The child's present caregiver was informed of this request, the recommended medications, the anticipated benefits, and the possible adverse reactions. The caregiver's response was agreeable other (*explain*):

22 Additional information regarding medication treatment plan: _____



Case Number:

Child's name: _____

23 List all psychotropic medications currently administered that you propose to continue and all psychotropic medications you propose to begin administering. Mark each psychotropic medication as New (N) or Continuing (C).

<i>Medication name (generic or brand) and symptoms targeted by each medication's anticipated benefit to child</i>	<i>C or N</i>	<i>Maximum total mg/day</i>	<i>Treatment duration*</i>	<i>Administration schedule</i>
Med: Targets:				<ul style="list-style-type: none"> • Initial and target schedule for new medication • Current schedule for continuing medication • Provide mg/dose and # of doses/day • If PRN, provide conditions and parameters for use
Med: Targets:				

**Authorization to administer the medication is limited to this time frame or six months from the date the order is issued, whichever occurs first.*

24 List all psychotropic medications currently administered that will be stopped if this application is granted.

<i>Medication name (generic or brand)</i>	<i>Reason for stopping</i>	<i>Stop immediately or over period of time? (specify, including time)</i>

Date:

Type or print name of prescribing physician

▶

Signature of prescribing physician

JV-220(B)

Social Worker or Probation Officer's Statement—Attachment

Case Number:

This form must be completed and signed by the child's social worker or probation officer, and must be attached to *Application Regarding Psychotropic Medication* (form JV-220).

1 Child's name: _____

2 Describe what the child reports regarding taking the medication. If this is a request to renew or modify medication, include what the child reports regarding the benefits and side effects.

Check here if you need more space. Attach a sheet of paper and write "JV-220(B), number 2" for a title.

3 The child will provide input on the medication being prescribed (*check all that apply*)

- a. through the social worker
- b. through their attorney
- c. through their CASA
- d. by filling out JV 218
- e. by writing a letter to the judge
- f. by talking to the judge at a hearing
- g. other (*specify*): _____

4 Describe what the caregiver reports regarding the child taking the medication. If this is a request to review or modify medication, include what the caregiver reports regarding the benefits and side effects.

Check here if you need more space. Attach a sheet of paper and write "JV-220(B), number 4" for a title.

5 The caregiver will provide input on the medication being prescribed (*check all that apply*)

- a. through the social worker
- b. by filling out JV 219
- c. by writing a letter to the judge
- d. by talking to the judge at a hearing
- e. other (*specify*): _____

6 What comments, if any, do you have regarding the application? What else do you want the judge to know?

Check here if you need more space. Attach a sheet of paper and write "JV-220(B), number 6" for a title.



Child's name: _____

Case Number: [Empty box]

7 Nonpharmacological treatment alternatives

a. Describe nonpharmacological treatment alternatives to the proposed administration of psychotropic medication that have been tried with the child in the last six months.

b. Describe the child's response to the nonpharmacological treatments in (a).

c. If no nonpharmacological alternatives have been tried, explain the reasons for not doing so.

8 Pharmacological treatment alternatives

a. Describe other pharmacological alternatives to the medication you are prescribing that have been tried with the child in the last six months.

b. Describe the child's response to the pharmacological treatments in (a).

Case Number: _____

Child's name: _____

c. If no pharmacological alternatives have been tried, explain the reasons for not doing so.

d. List the psychotropic medications that you know were taken by the child in the past and the reason or reasons these were stopped if the reasons are known to you.

<i>Medication name (generic or brand)</i>	<i>Reason for stopping</i>

9 Therapeutic services, other than medication, in which the child is enrolled in or is recommended to participate during the next six months (*check all that apply; include frequency for group therapy and individual therapy*):

- a. Group therapy: _____
- b. Individual therapy: _____
- c. Milieu therapy (*explain*): _____
- d. Other modality (*explain*): _____

Date: _____

Type or print name of person completing this form

Signature

- Child welfare services staff (*sign above*)
- Probation department staff (*sign above*)

**Proof of Notice: Application
Regarding Psychotropic Medication**

Clerk stamps date here when form is filed.

DRAFT - Not approved by
the Judicial Council

Read JV-219-INFO, *Information About Psychotropic Medication Forms*, for more information about the required forms and the application process.

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:

1 The following parents/legal guardians of the child were notified of the physician's request to begin and/or to continue administering psychotropic medication, of the name of each medication, and that a JV-220, *Application Regarding Psychotropic Medication*, and a JV-220(A), *Prescribing Physician's Statement—Attachment*, are pending before the court. They were also provided with JV-217-INFO, *Information About Psychotropic Medication Forms*, a completed JV-220(A), *Prescribing Physician's Statement—Attachment*, a completed JV-220(B), *Social Worker or Probation Officer's Statement—Attachment* and a blank copy of JV-222, *Opposition to or Statement About Application Regarding Psychotropic Medication*, or with information on how to obtain a copy of each form.

a. Name: _____ Date notified: _____

Relationship to child: _____

Manner: In person By phone at (specify): _____

By electronic service at (e-mail address): _____

_____ (time sent): _____

By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____

b. Name: _____ Date notified: _____

Relationship to child: _____

Manner: In person By phone at (specify): _____

By electronic service at (e-mail address): _____

_____ (time sent): _____

By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____

c. Name: _____ Date notified: _____ Relationship to child: _____

Manner: In person By phone at (specify): _____

By electronic service at (e-mail address): _____ (time sent): _____

By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____

2 Parental rights were terminated, and the child has no legal parents who must be informed.

3 Parent/legal guardian (name): _____
was not informed because (state reason): _____

4 Parent/legal guardian (name): _____
was not informed because (state reason): _____

5 The child's current caregiver was notified that a physician is asking to treat the child with psychotropic medication and that a JV-220 and a JV-220(A) are pending before the court. The caregiver was provided a completed JV-220 (A), *Prescribing Physician's Statement—Attachment*, a completed JV-220(B), *Social Worker or Probation Officer's Statement—Attachment*, and a blank copy of JV-219, *Statement Regarding Psychotropic Medication* or information on how to obtain a copy of the form as follow:



Case Number: _____

Child's Name: _____

5 Caregiver (name): _____
Manner: In person By phone at (specify): _____ By electronic service at (e-mail address): _____
_____ (time sent): _____ By depositing the required information
in a sealed envelope in the United States mail, with first-class postage prepaid, to the following address
(specify): _____

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

Sign your name Signature follows on page 3.

6 The child's attorney and the child's CAPTA guardian ad litem, if that person is someone other than the child's attorney, were provided with completed JV-220, Application Regarding Psychotropic Medication; completed JV-220(A), Prescribing Physician's Statement—Attachment; completed JV-220(B), Social Worker or Probation Officer's Statement Attachment; a copy of JV-217-INFO, Information About Psychotropic Medication Forms; a blank JV-218, Child's Statement Regarding Psychotropic Medication; and a blank copy of JV-222, Opposition to or Statement About Application Regarding Psychotropic Medication, as follows:

- a. Attorney's name: _____ Date notified: _____
Manner: In person By fax at (specify): _____
 By electronic service at (e-mail address): _____ (time sent): _____
 By depositing copies in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____
- b. CAPTA guardian ad litem's name: _____ Date notified: _____
Manner: In person By fax at (specify): _____
 By electronic service at (e-mail address): _____ (time sent): _____
 By depositing copies in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____

7 The following attorneys were notified of the physician's request to begin and/or continue administering psychotropic medication, of the name of each medication, and that a JV-220, Application Regarding Psychotropic Medication, and a JV-220(A), Prescribing Physician's Statement—Attachment, are pending before the court. They were also provided with a copy of JV-220(A), Prescribing Physician's Statement --Attachment, a copy of JV-220(B), Social Worker or Probation Officer's Statement --Attachment, a copy of JV-217-INFO, Information About Psychotropic Medication Forms, and a blank copy of JV-222, Opposition to Application Regarding Psychotropic Medication, or with information on how to obtain a copy of each form as follows:

- a. Attorney's name: _____ Date notified: _____
Attorney for (name): _____
Manner: In person By phone at (specify): _____ By fax at (specify): _____
 By electronic service at (e-mail address): _____ (time sent): _____
 By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (specify): _____
- b. Attorney's name: _____ Date notified: _____
Attorney for (name): _____
Manner: In person By phone at (specify): _____ By fax at (specify): _____
 By electronic service at (e-mail address): _____ (time sent): _____

Case Number: _____

Child's Name: _____

- 7 By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (*specify*): _____
- c. Attorney's name: _____ Date notified: _____
 Attorney for (*name*): _____
 Manner: In person By phone at (*specify*): _____ By fax at (*specify*): _____
 By electronic service at (*e-mail address*): _____ (*time sent*): _____
 By depositing the required information and copies of JV-219-INFO and JV-222 in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (*specify*): _____

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 ▶ *Sign your name* Signature follows on page 3.

- 8 The child's CASA volunteer was notified that a JV-220 and a JV-220(A) are pending before the court. The CASA was provided a completed JV-220(A), *Prescribing Physician's Statement—Attachment*, a completed JV-220(B), *Social Worker or Probation Officer's Statement—Attachment*, and a blank copy of JV-219, *Statement Regarding Psychotropic Medication* or information on how to obtain a copy of the form as follows:
 CASA volunteer (*name*): _____ Date notified: _____
 Manner: In person By phone at (*specify*): _____
 By electronic service at (*e-mail address*): _____ (*time sent*): _____
 By depositing the required information in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (*specify*): _____

- 9 The Indian child's tribe was notified of the physician's request to begin and/or continue administering psychotropic medication, of the name of each medication, and that a JV-220, *Application Regarding Psychotropic Medication*, and a JV-220(A), *Prescribing Physician's Statement—Attachment*, are pending before the court. They were also provided a copy of JV-220(A), *Prescribing Physician's Statement --Attachment*, a copy of JV-220(B), *Social Worker or Probation Officer's Statement --Attachment*, and a blank copy of JV-219, *Statement Regarding Psychotropic Medication* or information on how to obtain a copy of the form. They were also provided a copy of JV-217-INFO, *Information About Psychotropic Medication Forms*, and a blank copy of JV-222, *Opposition to Application Regarding Psychotropic Medication*, or with information on how to obtain a copy of each form, as follows:
 Indian Tribe (*name*): _____ Date notified: _____
 Manner: In person By phone at (*specify*): _____ By fax at (*specify*): _____
 By electronic service at (*e-mail address*): _____ (*time sent*): _____
 By depositing the required information in a sealed envelope in the United States mail, with first-class postage prepaid, to the last known address (*specify*): _____

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 ▶ *Sign your name*

JV-222

Opposition to or Statement About Application Regarding Psychotropic Medication

Clerk stamps date here when form is filed.

If you do not agree that the child should take the recommended psychotropic medication and/or continue the psychotropic medication that the child is currently taking, you must complete this form and file it with the court within four court days of service of notice of the pending application for psychotropic medication. Read JV-219-INFO, *Information About Psychotropic Medication Forms*, for more information about the required forms and the application.

1 Your information:

- a. Name: _____
- b. Address: _____

- c. Phone: _____ Fax: _____
E-mail: _____
- d. If you are not an attorney filling out this form for a client, your relationship to the child is: _____
- e. If you are an attorney filling out this form for a client, provide the following information about your client:
Your client's name: _____
Your client's relationship to the child: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name
Date of Birth:

Court fills in case number when form is filed.

Case Number:

2 The application is opposed because: _____

Case Number: _____

Child's name: _____

3 The application is not opposed, but I want to tell the court the following:

5 I am the attorney for the child

a. I need more time to investigate the application

b. I need the following information to determine whether to agree with or oppose to the application

c. There is other information the judge should know:

5 Additional information about the child for the court to consider is included on Attachment 5.

Date:

Type or print name



Signature

JV-223

Order Regarding Application for Psychotropic Medication

Clerk stamps date here when form is filed.

The Court read and considered:

- a. JV-220, *Application Regarding Psychotropic Medication*, and JV-220(A), *Prescribing Physician's Statement—Attachment*, filed on (date): _____
- b. JV-220B, *Social Worker or Probation Officer's Statement—Attachment*
- c. JV-222, *Opposition to or Statement About Application Regarding Psychotropic Medication*, filed on (date): _____
- d. JV-217, *Child's Statement regarding Psychotropic Medication, Initial Request*
- e. JV-218, *Statement Regarding Psychotropic Medication*
- f. CASA report
- g. Other (specify): _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:

The Court finds and orders:

- 1 a. Notice requirements were met.
- b. Notice requirements were *not* met. Proper notice was not given to: _____

- 2 The matter is set for hearing on (date): _____ at (time): _____ in (dept.): _____

- 3 Application was made for authorization to begin or to continue giving the child the psychotropic medication listed in (22) on page 6 of JV-220(A).

A copy of page 6 of JV-220(A) is attached to this order.

The application is (check one):

- a. granted as requested.
- b. granted with the following modification or conditions to the request as made in (22) on the attached page 5 of JV-220(A) (specify all modifications and conditions): _____

- c. temporarily granted as requested until (enter a date no later than 14 calendar days from today's date): _____ . By that date, the department must resubmit the application with the missing information which is: _____



Case Number: _____

Child's name: _____

d. temporarily granted with the following modification or conditions to the request as made in 22 on the attached page of JV-220A until (enter a date no later than 14 calendar days from today's date): _____ . By that date, the department must resubmit the application with the missing information which is: _____

(Specify all modifications and conditions to the request): _____

e. denied (specify reason for denial): _____

If the application was for medication the child is currently taking, the social worker or probation officer must consult with the prescribing physician to determine whether the medication should be stopped immediately or gradually reduced over time.

f. denied. The department must resubmit the application with the missing information which is:

by (enter a date no later than 14 calendar days from today's date): _____

If the application was for medication the child is currently taking, the social worker or probation officer must consult with the prescribing physician to determine whether the medication should be stopped immediately or gradually reduced over time.

4 The

a. social worker

b. probation officer

c. person who submitted application

is ordered to give a copy of this order, including page 5 of the JV-220(A) to the child's caregiver either in person or by mail within two days.

5 Other (specify): _____

This order is effective until terminated or modified by court order or until 180 days from the date of this order, whichever is earlier. If the prescribing physician is no longer treating the child, this order extends to subsequent treating physicians. A change in the child's placement does not require a new order regarding psychotropic medication. Except in an emergency situation, a new application must be submitted and consent granted by the court before giving the child medication not authorized in this order or increasing medication dosage beyond the maximum daily dosage authorized in this order.

Date: _____


Signature of judge or judicial officer

Report Regarding Psychotropic Medication-County Staff

Clerk stamps date here when form is filed.

DRAFT - Not approved by the Judicial Council

The social worker or probation officer must file this form at any hearing where the court is providing oversight of psychotropic medications. This includes all scheduled progress reports on orders authorizing psychotropic medication and every status review hearing. If you are filing this form for a status review hearing, file it with the status review hearing report. If you need more space for any of the items, write the item number and additional information on page 4 of this form. If you need more space than page 4, attach a sheet or sheets of paper.

1 Your name: _____

2 Your relationship to the child:

- Social worker Probation officer
- Public health nurse
- Other county staff (*specify*): _____

- 3 a. Name of Caregiver: _____
- b. Address: _____
- c. Relationship to Child: _____
- d. Date of Last Communication with Caregiver: _____

4 Child Information

- a. Child's Height: _____ b. Child's Weight: _____
- c. Prescribing Physician's Name: _____
- d. Date Last Seen by Prescribing Physician: _____
- e. Next Appointment Date: _____
- f. Therapist's Name: _____
- g. Date Last Seen by Therapist: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name
Date of Birth:

Court fills in case number when form is filed.

Case Number:

5 List Current Court Approved Psychotropic Medications (*verify that this is what child is taking.*)

Name of Medication	Dosage

Name of Medication	Dosage

6 The child is taking the medication in 5. This was verified by child caregiver other (*specify*): _____

7 The child is not taking the following medication in 5 (*specify*): _____
This was verified by child caregiver other (*specify*): _____



Child's name: _____

8 Describe the caregiver's observations regarding the effectiveness of the medication.

9 Describe the caregiver's observations regarding the side effects of the medication.

10 Describe any concerns the caregiver has regarding the medication.

11 Describe the child's observations regarding the effectiveness of the medication.

12 Describe the child's observations regarding the side effects of the medication.

13 Describe any concerns or complaints the child has regarding the medication.

14 List the dates of all medication management appointments since the last court hearing.



Case Number: _____

Child's name: _____

15 List the dates and reasons of other follow up medical appointments since the last court hearing.

16 Relevant laboratory tests performed or ordered (specify frequency and date of most recent test):

- kidney function: _____
- liver function: _____
- thyroid function: _____
- UA: _____
- glucose: _____
- lipid panel: _____
- CBC: _____
- EKG: _____
- pregnancy: _____
- medication blood levels (specify): _____
- other (specify): _____

17 Describe other mental health treatments that are part of the child's overall treatment plan. (For example, frequency and type of counseling, wraparound, etc.)

18 Provide any other information you think the judge should know.

(specify): _____



Case Number:

Child's name: _____

19 Check here if you need more space for any of the items. Write the item number and additional information here. If you need more space, attach a sheet or sheets of paper.

Lined area for additional information.

Date:

Type or print name of person completing this form



Signature

- Child welfare services staff (sign above)
- Probation department staff (sign above)
- Public Health Nurse (sign above)
- Other (specify): _____ (sign above)

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Juvenile Law: Sealing of Records: Adopt Cal. Rules of Court, rule 5.840; amend rule 5.830; adopt forms JV-591, JV-595, JV-595-INFO, JV-596, and JV-596-INFO; revise forms JV-590 and JV-600

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Staff contact (name, phone and e-mail): Tracy Kenny, (916) 263-2838, tracy.kenny@jud.ca.gov

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

Approved by RUPRO: December 10, 2014

Project description from annual agenda: Provide subject matter expertise to the council by making recommendations for rules and forms required by recent legislative changes as a result of SB 1038 (Leno) Juveniles: dismissal of petition (Ch. 249). Removes the cap of 21 years old by which a court must dismiss a petition against a former ward of the court. Does not require the court to have jurisdiction over the former ward at the time of dismissal of a petition. Further requires a court to automatically seal the records of minors under specified circumstances, and grants limited access to such files without this access constituting "unsealing" of the records.

If requesting July 1 or out of cycle, explain:

Different versions of this proposal have been circulated in two prior Spring Cycles and deferred as a result of further legislative changes. In order to expeditiously meet prior legislative mandates to take action on rules and forms this proposal is being proposed for a July 1 effective date so that courts have the forms and direction they need to carry out these statutory duties.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Juvenile Law: Sealing of Records	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rule 5.840; amend rule 5.830; adopt forms JV-591, JV-595, JV-595-INFO, JV-596, and JV-596-INFO; revise forms JV-590 and JV-600	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Tracy Kenny, 916-263-2838
Hon. Jerilyn L. Borack, Cochair	tracy.kenny@jud.ca.gov
Hon. Mark A. Juhas, Cochair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes new and amended rules and forms to implement the provisions of five recently enacted statutes intended to make it easier for those with juvenile delinquency records to ensure those records are sealed. The proposal includes rules and forms to assist the courts in implementing these new legislative mandates to seal certain records at case dismissal, and to provide information about the procedures for record sealing to all juvenile probationers.

Background

The Legislature has been taking repeated action to ensure that all people with juvenile records who are eligible to have them sealed can have the opportunity to do so with as few barriers as possible. Prior to the enactment of this legislation, most sealing was ordered under Welfare and Institutions Codes section 781¹, which enables eligible individuals to petition the juvenile court to have juvenile records sealed under certain circumstances specified within the code. The records eligible for sealing include contacts with the juvenile justice system, law enforcement, the Department of Motor Vehicles, and other agencies. These contacts include juvenile court records resulting from formal adjudications under section 602 of the code and informal contacts with probation and law enforcement under sections 601 and 626 of the code. To qualify for

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise specified.

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

sealing, among other requirements, the records must not fall within section 707(b) of the code² if committed by an individual 14 years of age or older, the offense must not have led to a conviction in adult court under section 707.1, and the petitioner must not have been convicted of a felony or misdemeanor involving moral turpitude as an adult. In addition, the court must find that the petitioner has been satisfactorily rehabilitated.

In 2013, the Legislature took action to ensure that all juveniles who come before the court or a probation officer receive information about the process required to request sealing of records, as well as requiring the adoption of a Judicial Council form that can be used to petition the court for sealing under section 781 (Assembly Bill 1006 [Yamada]; Stats. 2013, ch. 269). In 2014, the Legislature went a step further, by enacting section 786, requiring courts to seal records without requiring a petition for any child 14 or older who was not a serious or violent (707(b)) offender and who satisfactorily completed probation (Sen. Bill 1038 [Leno]; Stats. 2014, ch. 249). That legislation, however, spurred many questions and concerns within the juvenile justice system, and as a result, legislation was enacted in 2015 to clarify the scope and impacts of section 786. Assembly Bill 666 (Stone); Stats. 2015, ch. 368; and Assembly Bill. 989 (Cooper); Stats. 2015, ch. 375; both sought to clarify section 786 and remedy the ambiguities and concerns raised by stakeholders about the original legislation.

Section 786 now requires that when a child satisfactorily completes a term of informal or formal probation for any offense that is not a 707(b) offense committed when the child was 14 or over, the court must dismiss that petition and seal the records pertaining to that arrest and offense. The statute now provides that the records to be sealed must include records in the custody of the court, law enforcement agencies, the probation department, and the Department of Justice. It also allows the child to request that additional records be sealed and allows the court to grant that sealing request if it finds that sealing the additional record will “promote the successful reentry and rehabilitation of the child (Welf. & Inst. Code, § 786(e)(2)).” The court is also authorized to seal records pertaining to prior petitions if the court finds that the sealing criteria in section 786 have been met.

To address the many concerns that were raised by stakeholders as the prior version of section 786 was being implemented; the new statute gives many provisions allowing access to a previously sealed record to ensure that the courts and their juvenile justice system partners can carry out their other statutory obligations.

In addition to the changes to section 786, the Legislature also enacted Senate Bill 504 (Lara; Stats. 2015, ch. 388), amending section 781, which authorizes sealing of a delinquency record by petition to the court, as well as section 903.3, which provides for the imposition of a \$150 fee to recover the costs for probation or the court to research and prepare a sealing order. The amendments to section 781 provide that an unfulfilled order of restitution is not a bar to sealing under section 781 and that outstanding restitution fines and court-ordered fees are not to be

² Section 707(b) contains the list of serious and violent offenses for which a minor may be prosecuted in adult court.

considered when the court assesses the satisfactory rehabilitation of the petitioner. They also clarify the court's authority to continue enforcing restitution, fees, and fines after a record has been sealed. The amendments to section 903.3 limit the cases in which a fee for sealing can be charged to those in which the sealing petitioner is 26 years of age or older.

Prior Circulation

The provisions of this proposal that would implement AB 1006 were circulated for comment in spring 2014. Before the council could act on that proposal, SB 1038 was enacted, significantly changing the law on the sealing of juvenile records. Given this change in the law, committee members opted to defer action on the proposal until they could modify it to incorporate the changes made by SB 1038 and circulate a comprehensive package of rules and forms to implement new law on juvenile record sealing in the spring 2015 cycle. However, because of some ambiguities in SB 1038, legislation was introduced in 2015 to clarify its provisions, and because many of the comments received on the proposal were resolved by the legislation, the committee opted to again defer action to ensure that the rules and forms would be current and comprehensive.

The Proposal

Overview of proposal

This proposal recommends adoption of one mandatory information form, *How to Make Your Juvenile Records Private* (form JV-595-INFO), and approval of one optional petition form, *Request to Seal Juvenile Records* (form JV-595), to implement AB 1006 while incorporating the recent changes made by SB 1038, AB 666, AB 989, and SB 504 into the information form. A new mandatory information form, *Sealing of Records at Termination and Dismissal* (form JV-596-INFO), is recommended for adoption, as is a new rule of court, rule 5.840, to implement the new mandatory sealing requirements created by section 786. An optional order form *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786* (form JV-596), and an optional form for advising the court that the sealing has taken place, *Acknowledgment of Record Sealed* (form JV-591), are recommended for approval. In addition, rule 5.830 would be amended to reflect the directives of AB 1006: the petition and information form would be referred to within the rule, and the distribution requirements would also be specified. Additionally, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781* (form JV-590) would be revised from a mandatory form to an optional form to provide courts with the flexibility to develop an order that reflects local agency and court practices when sealing records based on a petition. Finally, *Juvenile Wardship Petition* (form JV-600) would be revised to include a notice alerting minors about record sealing at an earlier phase of the proceedings.

Proposed new form JV-591

Section 786 as recently amended now requires that the agencies that receive an order to seal records from the court must advise the court that they have complied with the order. A similar requirement is contained in section 781 for records sealed under a petition to the court. To assist the courts in implementing this requirement, the committee proposes approval of a new optional

form, *Acknowledgment of Record Sealed* (form JV-591), which can be used by agencies ordered to seal records under sections 781 and 786 to advise the court that the sealing order has been followed.

Proposed new forms JV-595-INFO and JV-595

Previously, no statutory directives mandated that the court and probation “shall ensure” that eligible individuals are informed of available record-sealing options. The newly revised code directs that the informational materials and optional form must be provided by the court or probation to eligible individuals when jurisdiction is terminated or the case is dismissed. Proposed new mandatory *How to Make Your Juvenile Records Private* (form JV-595-INFO) includes information on the benefits and limitations of record sealing and includes the new provisions of SB 504 relating to restitution, fines and fees, and the fees for record sealing. It is intended to use plain language and a user-friendly format to explain the process required for record sealing, with the goal of increasing the likelihood that the optional form JV-595, *Request to Seal Juvenile Records*, is completed accurately so that courts can properly seal all appropriate juvenile records. It alerts petitioners to the fact that probation will research their cases and contacts and attach a list of those eligible for sealing to the petition, but that they need to list any contacts that may not be in probation’s records.

Because many minors with juvenile records will now have their records sealed by the court as a matter of law when their cases are dismissed, the form also provides information on those cases that are eligible for this sealing, as well as information on sealing for cases with a deferred entry of judgment order under section 790. Such cases must be ordered by the court sealed if the minor satisfactorily completes the program assigned during the period that the judgment has been deferred.

Proposed new optional *Request to Seal Juvenile Records* (form JV-595) is intended to provide the petitioner with a simple but optional method to request sealing. It directs the petitioner to file the form with each probation agency with records concerning the petitioner, and provides that the probation agency will compile the list of agencies with records subject to sealing. It also directs the petitioner to include any contact with law enforcement and other agencies that were not referred to probation and thus might not be included in the probation agency’s records. The form has been drafted in plain language to make it accessible to all petitioners.

Proposed new form JV-596

To provide the courts with a means to accomplish its new responsibility to seal records after dismissing a petition, as required by section 786, this proposal recommends approval of a new optional order form for this purpose. This form is very similar to the order form used to seal the records of minors who successfully complete a section 790 deferred entry of judgment program. It provides for the court to seal records in the custody of law enforcement, probation, and the Department of Justice in every case dismissed under section 786, and provides courts with the option to seal additional agency records as provided in subdivision (e). It further specifies the

date by which the records must be destroyed as required by section 786. Because section 786 does not specify a time frame for destruction of these records, the committee opted to adopt the timelines for record destruction stated in section 781(d): five years from the date of the order for noncourt records, and when the subject of the order attains age 38 for court records. However, because this time frame might result in records being destroyed before the subject of the order is 18, and access to the sealed records is allowed if a subsequent juvenile petition is filed, the committee has revised this time frame to provide that no record can be destroyed before the subject of the order has attained 18 years of age. In addition, the committee proposes adding a section to the form to allow agencies whose records are sealed to advise the court that its sealing orders have been complied with.

Proposed new form JV-596-INFO

Because the enactment of section 786 has significantly changed the procedural landscape on sealing of juvenile records, the committee determined that it was necessary to create an additional mandatory informational form to explain the new sealing process and requirements and to alert those with juvenile delinquency records to the probability that their records will be sealed by the court without the filing of a petition. New form JV-596-INFO, *Sealing at Termination and Dismissal*, explains how the new sealing provisions will work, which records will be sealed, and who will have access to those records and refers those whose records are not sealed to form JV-595-INFO for information on petitioning the court. Form JV-596-INFO also satisfies the requirement in section 786 that the court provide notice to those whose records are sealed that they need not disclose those offenses or records with a section explaining what it means that the arrests are deemed not to have occurred. This form would be provided to all youth whose records are sealed under section 786 in lieu of JV-595-INFO to avoid confusion and the filing of unnecessary sealing petitions.

Revised form JV-590

Order to Seal Juvenile Records—Welfare and Institutions Code Section 781 (form JV-590) is currently a mandatory form. To provide courts with maximum flexibility to issue record-sealing orders that reflect the individual court's needs, practices, and local agencies, the committee proposes that form JV-590 be revised from mandatory to optional. This change would provide flexibility from county to county, with the optional form available if needed. In addition, the committee proposes adding room on the form for the court to specify the date that these records should be destroyed and to allow those whose records are sealed to advise the court that sealing has been accomplished. Finally, the committee has removed references to sealing records in other juvenile courts, consistent with its proposal to require that a petition be filed in each court in which records are held to ensure that records are sealed.³

Revised form JV-600

The committee also proposes revising *Juvenile Wardship Petition* (form JV-600) to include a directive informing youth about the option of record sealing and identifying forms JV-595-

³ This issue is discussed in detail as part of the description of the proposed amendments to rule 5.830.

INFO, *How to Make Your Juvenile Records Private*, and JV-596-INFO, *Sealing of Records at Termination and Dismissal*, as sources of information. This proposed revision will serve two purposes: it will (1) alert minors about record sealing at an earlier phase of the juvenile court proceedings and (2) provide a supplementary way to reach those minors who may be named in a petition but have limited contact with probation.

Amended rule 5.830

The proposed changes to rule 5.830 involve incorporating references to forms JV-595-INFO, JV-595, and JV-590 and defining the roles of the court and probation department in ensuring that the forms are provided as required. The rule would also direct probation to assemble a list of contact and agency addresses to be attached to the petition so that all records will be sealed.

The committee proposes deleting the provisions in the existing rule which specify that the sealing order “must apply in the county of the court hearing the petition and in all other counties in which there are juvenile records concerning the petitioner.” Although this has been the rule for many years, nothing in section 781 requires or directs courts to seal records in other courts. In its current form, rule 5.830 has not been interpreted consistently with regard to its description of the records that must be sealed in other counties when the court’s record-sealing order is issued. Moreover, as comments have been received on prior circulations of this rule, it has become clear that unless a case has been formally transferred from one court to another, many courts do not have information about these records, and as a result many courts do not seal the non-transfer records of other courts in practice. Given this context, the committee proposes deleting the requirement that courts seal the records of other juvenile courts unless the case has been transferred. While this practice may be somewhat more burdensome for those seeking to seal their records, it is also designed to ensure that all eligible records are in fact sealed and the full benefits of sealing are achieved by the petitioners. The committee also notes that this burden has been lessened by the recent statutory changes that make sealing by the court more likely in most cases going forward and that eliminate fees for sealing by petition for those under 26.

The committee also proposes adding an advisory comment that provides general context on the purpose of record sealing and addresses the scope and overall specifications of the act of record sealing.

Proposed new rule 5.840

The proposal recommends adoption of a new rule of court to implement the sealing requirements of section 786 as required by the recently amended statute. The rule would result in the sealing of all records in the custody of law enforcement, probation, and the Department of Justice in every case dismissed under section 786, and presents the standard for sealing the records of additional agencies upon request as authorized in section 786(e). It further directs the clerk of the court to distribute the order to all named agencies, the subject of order, and his or her attorney. It requires the court to include the record destruction date as described in section 781(d), provided that no

record is destroyed before the subject of the order reaches age 18. It also includes the access exceptions allowed by sections 786 and 787.

Alternatives Considered

With the passage of Assembly Bill 1006, the Legislature directed the Judicial Council to develop informational materials and a form petition to ensure that eligible individuals are adequately informed about the option of sealing their records and provided with a form to assist them in petitioning the court. Consideration was given to how the informational materials could be most effectively presented and in what format. The committee determined that an information form, available on the court website, would be more likely to reach the target audience and remain more relevant than a less formal handout, which might, over time, be forgotten. In addition, making the information form mandatory would raise its relevance by increasing awareness and encouraging compliance. The committee, to further increase the likelihood for the form to reach its target audience and to provide information at an earlier phase of the proceedings, determined that adding a notice about record sealing to the *Juvenile Wardship Petition* (form JV-600) would be beneficial.

Consideration was also given to whether rule 5.830 needed to be revised. Ensuring consistency and clarifying the new requirements are the clear benefits of revising the rule as proposed. Although a prior version required probation to develop a list of cases and contacts to be handed out at the termination of each case, with the enactment of section 786 and the increasing frequency of sealing as a matter of law, it seemed less burdensome on probation to have the contact list created at the time the petition is filed so that this work only occurs when needed.

Request to Seal Juvenile Records, form JV-595, was created as required by the Legislature but is proposed as an optional form to allow petitioners to submit a request to seal in whatever manner they prefer. Although the form provides a convenient method of petitioning the court, mandating its use may delay applications and run contrary to the intent of Assembly Bill 1006. Similarly, revising form JV-590, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781*, from a mandatory form to an optional form will lead to more flexibility in implementation for the courts.

Although the new legislation's target population is primarily youth described by sections 602 and 626 of the Welfare and Institutions Code, consideration was given to whether efforts should be made to reach youth described by section 781(d)—specifically, those youth who are arrested and dealt with informally by law enforcement. Although reaching these youth would clearly be beneficial, the legislation does not provide an avenue to accomplish this goal, and efforts to reach those individuals not described in section 781(d) would be burdensome to the court and probation.

When SB 1038 first enacted section 786 in 2014, it did not expressly require the council to take any action, but at the time the committee deemed it necessary at a minimum to ensure that the information provided to those seeking to seal their records reflected the current state of the law.

AB 666, however, does expressly require the council to adopt rules and forms to allow for the implementation of section 786, and because of the added complexity of the revised statute, the committee determined that two information forms would be preferable to get accurate information to juvenile probationers and prevent confusion. In addition, because section 786 significantly modifies current practices in juvenile court by requiring courts to dismiss and seal many of the petitions that will come before them going forward, the committee deemed it best to create an optional form and a simple and straightforward rule of court to assist courts in implementing these new requirements as efficiently as possible. The committee considered modifying existing rules and forms, but given that this method of sealing will likely become the most common sealing procedure and given its sufficient distinctions from existing sealing processes, the committee concluded that new forms would ultimately be more useful to the courts.

Implementation Requirements, Costs, and Operational Impacts

Courts will be required to produce paper copies of the information form and petition as required by AB 1006. Some courts may incur programming charges if electronic systems are used for the court order. Implementation of section 786 will require courts to generate and disseminate many new sealing orders as required by the legislation. The optional order form will assist courts in carrying out this function, and the rule will clarify the basic procedures required to accomplish the new requirements. In addition, the optional acknowledgment form will provide a means for courts to obtain the required advisement that records have been sealed.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Is the time frame for destruction of records sealed under section 786 proposed by the committee an appropriate standard given that the statute is silent?
- Will the proposed change in the rule to require petitions to be filed in each county in which a petitioner has non-transfer records improve or hinder the current record-sealing process?
- Is it preferable to provide information on sealing to youth on two information forms to distinguish between sealing under section 786 and section 781 or would one form be preferable?
- Will the optional *Acknowledgment of Juvenile Record Sealed* assist courts in ensuring compliance with their orders?

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

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

Attachments and Links

1. Proposed Cal. Rules of Court, rules 5.830 and 5.840, at pages 10–14
2. Proposed new and revised forms JV-590, JV-591, JV-595, JV-595-INFO, JV-596, JV-596-INFO, and JV-600, at pages 14–24
3. Assembly Bill 1066
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1006
4. Senate Bill 1038
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1038
7. Senate Bill 504
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB504
5. Assembly Bill 666
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB666
6. Assembly Bill 989
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB989

Rule 5.830 of the California Rules of Court would be amended and rule 5.840 adopted, effective January 1, 2016, to read:

1 **Rule 5.830. Sealing records (§ 781)**

2
3 **(a) Sealing records—former wards (§ 781)**

4
5 (1) A former ward of the court may apply to petition the court to order juvenile
6 records sealed. Determinations under section 781 must be made by the court
7 in each the county in which wardship was last terminated. A court may seal
8 the records of another court when a case has been transferred to its
9 jurisdiction under rules 5.610 and 5.612.

10
11 (2) At the time jurisdiction is terminated or the case is dismissed, the court must
12 provide or instruct the probation department to provide form JV-595-INFO,
13 How to Make Your Juvenile Records Private, and form JV-595, Request to
14 Seal Juvenile Records, to the ward if the court does not seal the ward's
15 records under section 786. If the court does seal the ward's records under
16 section 786, the court must provide or instruct the probation department to
17 provide form JV-596-INFO, Sealing of Records at Termination and
18 Dismissal, and a copy of the sealing order as provided in rule 5.840.

19
20 ~~(1)~~(3) *Application—submission*

21
22 (A) The application for a petition to seal records must be submitted to the
23 probation department in each county in which wardship was last
24 terminated.

25
26 (B) The application for a petition to seal juvenile records may be submitted
27 on form JV-595, Request to Seal Juvenile Records, or on another form
28 that includes all required information.

29
30 ~~(2)~~(4) *Investigation*

31
32 If the probation officer determines that under section 781 the former ward is
33 eligible to petition for sealing, the probation officer must do all of the
34 following:

35
36 (A) Prepare the petition;

37
38 (B) Conduct an investigation under section 781 and compile a list of cases
39 and contact addresses of every agency or person that the probation
40 department knows has a record of the ward's case—including the date
41 of each offense, case number(s), and date when the case was closed—
42 to be attached to the sealing petition.

- 1
2 (C) Prepare a report to the court with a recommendation supporting or
3 opposing the requested sealing; and
4
5 (D) Within 90 days from receipt of the application ~~if only the records of~~
6 ~~the investigating county are to be reviewed, or within 180 days from~~
7 ~~receipt of the application if records of other counties are to be~~
8 ~~reviewed:~~
9
10 (i) File the petition;
11
12 (ii) Set the matter for a hearing, which may be nonappearance; and
13
14 (iii) Notify the prosecuting attorney of the hearing.

15
16 ~~(3)(5)~~ * * *

17
18 ~~(4)(6)~~ If the petition is granted, the court must order the sealing of all records
19 described in section 781 using form JV-590, *Order to Seal Juvenile*
20 *Records—Welfare and Institutions Code Section 781*, or a similar form. The
21 order must apply in the county of the court hearing the petition and in all
22 other counties in which there are juvenile records concerning the petitioner.

23
24 **(b) Sealing—nonwards**

25
26 (1) For all other persons described in section 781, application may be submitted
27 to the probation department in any county in which there is a juvenile record
28 concerning the petitioner, and the procedures of (a) must be followed.

29
30 (2) When jurisdiction is terminated or the case is closed, the probation
31 department must provide the following forms to individuals described under
32 section 781(h)(1)(A) and (B):

33
34 (A) If the individual’s records have not been sealed under section 786, form
35 JV-595-INFO, *How to Make Your Juvenile Records Private*, and form
36 JV-595, *Request to Seal Juvenile Records*; or

37 (B) If the individual’s records have been sealed under section 786, form
38 JV-596-INFO, *Sealing of Records at Termination and Dismissal*, and a
39 copy of the sealing order.

40
41 (c) * * *

42
43 **(d) Distribution of order**

1
2 The clerk of the issuing court must:

- 3
4 (1) Send a copy of the order to each agency and official listed in the order; ~~and~~
5
6 (2) Send a certified copy of the order to the clerk in each county in which a
7 record is ordered sealed.
8

9 (e) * * *

10
11 **Advisory Committee Comment**
12

13 This rule is intended to describe the legal process by which a person may apply to petition the
14 juvenile court to order the sealing—that is, the prohibition of access and inspection—of the
15 records related to specified cases in the custody of the juvenile court, the probation department,
16 and other agencies and public officials. This rule establishes minimum legal standards, but does
17 not prescribe procedures for the management of physical or electronic records or methods for
18 preventing public inspection of the records at issue. These procedures remain subject to local
19 discretion. Procedures may, but are not required to, include the actual sealing of physical records
20 or files. Other permissible methods of sealing physical records pending their destruction under
21 section 781(d) include, but are not limited to, storing sealed records separately from publicly
22 accessible records, placing sealed records in a folder or sleeve of a color different from that in
23 which publicly accessible records are kept, assigning a distinctive file number extension to sealed
24 records, or designating them with a special stamp. Procedures for sealing of electronic records
25 must accomplish the same objectives as the procedures used to seal a physical record.
26

27 **Rule 5.840. Dismissal of petition and sealing of records (§ 786)**
28

29 **(a) Applicability**
30

31 This rule states the procedures to dismiss and seal the records of minors who are
32 subject to section 786.
33

34 **(b) Dismissal of petition**
35

36 If the court finds that a minor subject to this rule has satisfactorily completed his or
37 her informal or formal probation supervision, the court must order the petition
38 dismissed. The court may also dismiss prior petitions filed or sustained against the
39 minor if they appear to the satisfaction of the court to meet the sealing and
40 dismissal criteria in section 786.
41

42 **(c) Sealing of records**
43

1 For any petition dismissed by the court pursuant to section 786, the court must also
2 order sealed all records in the custody of the court, law enforcement agencies, the
3 probation department, and the Department of Justice pertaining to those dismissed
4 petition(s) using form JV-596, *Dismissal and Sealing of Records—Welfare and*
5 *Institutions Code Section 786*, or a similar form. The court may also seal records
6 pertaining to these cases in the custody of other public agencies upon a request by
7 an individual who is eligible to have records sealed under section 786, if the court
8 determines that sealing the additional record(s) will promote the successful reentry
9 and rehabilitation of the individual. The prosecuting attorney, probation officer,
10 and court must have access to these records as specifically provided in section 786.
11 Access to the records for research purposes must be provided as required in section
12 787.

13
14 **(d) Destruction of records**

15
16 All sealed records must be destroyed according to section 781(d), except that no
17 record shall be destroyed before the subject of the order has attained 18 years of
18 age. The court must specify the destruction date for all records in its order.

19
20 **(e) Distribution of order**

21
22 The clerk of the issuing court must send a copy of the order to each agency and
23 official listed in the order and provide a copy of the order to the individual whose
24 records have been sealed and his or her attorney. The court shall also provide or
25 instruct probation to provide the individual with form JV-596-INFO, *Sealing of*
26 *Records at Termination and Dismissal*.

27
28 **(f) Deadline for sealing**

29
30 Each agency, individual, and official notified must immediately seal all records as
31 ordered and advise the court that its sealing order has been completed using form
32 JV-591, *Acknowledgment of Record Sealed*, or another means.
33

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL 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: _____	
CASE NAME: _____	
ORDER TO SEAL JUVENILE RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 781	CASE NUMBER: _____

1. Name of petitioner (*specify aliases*): _____ Date of birth: _____
2. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (*name*): _____
3. The court has read and considered the petition and the report of the probation officer.
4. The petition is
 a. Granted. b. Denied.

THE COURT ORDERS

5. a. The sealing of petitioner's juvenile records in the custody of this court and the courts, agencies, and officials named below (*designate county*):

 See attachment (5) for additional names.
 b. The destruction of all sealed records according to Welfare and Institutions Code sections 389(c) and 781(d).
 c. Date court records must be destroyed: _____
 d. Date all other records must be destroyed: _____
6. Petitioner is relieved from the registration requirements under Penal Code section 290, and the registration information in the custody of the Department of Justice and other agencies and officials listed above shall be destroyed.
7. The clerk shall send a certified copy of this order to the clerk in each county in which a record is ordered sealed, and a copy to each agency and official listed above.

Date: _____ _____
 JUDICIAL OFFICER OF THE SUPERIOR COURT

[SEAL]	CLERK'S CERTIFICATE I certify that the foregoing is a true and correct copy of the original on file in my office. 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.: _____ E-MAIL 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:	CLERK'S USE ONLY
CASE NAME:	CASE NUMBER:
ACKNOWLEDGMENT OF JUVENILE RECORD SEALED	

1. TO THE CLERK OF THE COURT: I certify that the records ordered to be sealed by the court have been sealed, and a copy of this acknowledgement of record sealed has been sent to the court advising the court of compliance with its order.

2. Date of Court Order:

3. Child's Name:

4. Agency Name:

Date:

By: _____
Type or print your name

▶

Signature

*Probation stamps date here when form is received.***DRAFT
NOT APPROVED
BY THE JUDICIAL
COUNCIL**

This form can be used to petition the juvenile court to seal your juvenile records if you meet the requirements of Welfare and Institutions Code section 781. More information about sealing is available on form JV-595-INFO, *How to Make Your Juvenile Records Private*.

Submit this form to the probation department in EVERY county where you were on juvenile probation or, if you were not on probation, in EVERY county where you had contact with law enforcement or probation that did not result in a court case. Once the probation department receives the completed form, it will have 90 days to file a record-sealing petition with the court for you.

1 My information:

- a. Name: _____
- b. AKA (*nickname, or other family name*): _____
- c. Address: _____
- d. City, state, zip code: _____
- e. Area code and telephone number: _____
- f. Date of birth: _____
- g. E-mail address: _____

*Fill in court name and street address:***Superior Court of California, County of***Fill in your name:***Name:***Fill in case number, if known:***Case Number:****2** I had a case(s) that went to court.Case file number(s) (*if known*): _____The date probation was terminated (*if known*): _____

- I don't remember my case number and/or date.
- See attached. (*If you need more space, you may attach a separate page.*)

3 I had contact with law enforcement but did not go to court.

- Date(s) I had contact with law enforcement: _____
- Name(s) of law enforcement or other agency(ies): _____
- See attached. (*If you need more space you may attach a separate page.*)

4 I understand that the probation department is responsible for requesting the juvenile court to seal the records of only those agencies in its records and those listed on page 2 of this form. I understand that after I file this document and pay any fees that are required (note: fees are required only for petitioners 26 years of age and older), the probation department will have 90 days to conduct an investigation and file a record-sealing petition for me with the juvenile court. I also understand that some records may not be eligible for sealing. I am aware that form JV-595-INFO, *How to Make Your Juvenile Records Private*, provides more information on this process. I also understand that the federal government will not recognize sealing of records and that juvenile records must be reported, even though sealed, if I apply for enlistment in the armed services or other federal employment requiring disclosure of juvenile records.

Your name: _____

Case Number: _____

Note: When you file this form with the probation department, it will research your case history and attach a list of contacts and addresses of all agencies that it knows has records of the case(s) and contacts(s) you listed on page 1. If you have had contacts with law enforcement or another agency with a record of your offense that may not have been reported to the probation department, please list them below, or those records may not be sealed. If your case was transferred from one county to another, your records in both counties will be sealed. If you have a probation record in more than one county that was not transferred, you need to file this form in each of those counties to ensure that all of your eligible records are sealed.

5 Include all contacts (with addresses) you had, before your 18th birthday, with the agencies below that might not be part of your probation records:

- Court: _____
- Probation Department: _____
- Sheriff's Department: _____
- Police Department: _____
- California Highway Patrol: _____
- Department of Motor Vehicles: _____
- Law Enforcement: _____
- School(s): _____
- Homeland Security: _____
- Other: _____
- See attached. *(If you need more space, you may attach a separate page or pages listing the contacts.)*

I declare that the information on this form is true and correct to the best of my knowledge.

Date: _____

Type or print your name

 _____
Sign your name

JV-595-INFO How to Make Your Juvenile Records Private

If you did something wrong when you were under 18, the justice system, your school(s), or another public agency may have records about what you did. If you make those records **private** (sealed), it could be easier for you to:

- Find a job.
- Get a driver's license.
- Get a loan.
- Rent an apartment.
- Go to college.

In many cases the court will seal your records when probation is terminated.

If you satisfactorily completed probation after January 1, 2015, and you were not found to have committed an offense listed in Welfare and Institutions Code section 707(b) when you were 14 or older, the court sealed your records when it dismissed your case. Also, if your probation supervision was under "deferred entry of judgment" under Welfare and Institutions Code sections 790 to 795 and you did what you were supposed to do during the time of that agreement, the court ordered your records sealed when it dismissed your case. You should have received a copy of the sealing order, and you do not need to ask the court to seal the records in that order.

If the court did not find your probation completion satisfactory, it did not seal your records and you will need to ask the court to seal your records by filing a petition. For more information on when the court seals your records at termination of probation, see Form JV-596-INFO.

If you have more than one juvenile case or contact and are unsure which records were sealed by the court, ask your attorney or probation officer.

Who qualifies to ask the court to seal their juvenile records?

If the court has not already sealed your records, you can ask the court to make that order. You qualify if:

- You are at least **18**; or it has been at least five years since your case was closed, or your last contact with probation; and
- You have been rehabilitated to the satisfaction of the court.

What if you owe restitution or fines?

The court will not consider outstanding restitution, fines, and court ordered fees, but you are still required to pay the restitution, fines, and fees, and your records can be looked at to enforce those orders.

When do you *not* qualify to seal your records?

- If you were convicted as an adult of an offense involving moral turpitude, such as:
 - A sex or serious drug crime,
 - Murder or other violent crime, or
 - Forgery, welfare fraud, or other crime of dishonesty.
 or
- When you were 14 or older and the court found that you committed a serious offense listed in Welfare and Institutions Code section 707(b), such as murder, arson, rape, or other violent crime, as well as some offenses involving drugs or weapons, unless the court has dismissed that petition.

Who can see your sealed records?

- DMV can see your vehicle and traffic records and share them with insurance companies.
- The federal government (and the military) can see your sealed records if you apply for a federal job or enlist.
- The court may see your records if you are a witness or involved in a defamation case.
- If you apply for benefits as a nonminor dependent, the court may see your records.
- If your records were sealed automatically, the prosecutor and others can look at your record to determine if you are eligible to participate in a deferred entry of judgment program (diversion).
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

How do you ask to have your records sealed?

- ① You must fill out a court form. Form JV-595, *Request to Seal Juvenile Records*, at www.courts.ca.gov/forms.htm, can be used, or your court may have a local form.



- ② When you file your petition, the probation department will compile a list of every law enforcement agency, entity, or person the probation department knows has a record of your case, as well as a list of any prior contacts with law enforcement or probation and attach it to your petition.
- ③ If you think there are agencies that might have records on you that were never sent to probation, you need to include them, or the court will not know to seal them.
If you are not sure what contacts you might have had with law enforcement, you can get your criminal history record from the Department of Justice. See <http://oag.ca.gov/fingerprints/security> for more information.
- ④ Take your completed form to each probation department where you were on probation. (If you were not on probation, take your form to any county probation office where you have a juvenile record.)
Note: A small number of counties require you to take your form to the court. More information on each county's specific requirements can be found at www.courts.ca.gov/28120.htm.
- ⑤ If you are currently 26 years of age or older, you may have to pay a fee. If you cannot afford the fee, ask the probation department or the court about a fee waiver.
- ⑥ Probation will review your form and submit it to the court within 90 days.
- ⑦ The court will review your application. The court may decide right away to seal your juvenile records. Or the court may order a hearing. If there is a hearing, you will receive a notice in the mail with the date and time of the hearing. If the notice says your hearing is "unopposed" (meaning there is no disagreement with your request), you may choose not to go.

- ⑧ If you qualify to have your juvenile records sealed, the court will make an order to seal the eligible records listed on your application.
Important! The court can seal only records it knows about. If you have records in more than one court, you need to file a petition in every court that has your records to ensure that all records are sealed, unless your case was transferred from one court to the court where you are filing your sealing petition.
- ⑨ If the court grants your request, it will order each agency, entity, or person on your list to seal your records. The court will also order the records destroyed by a certain date.
- ⑩ The court will provide you with a copy of its order. Be sure to keep it in a safe place.

What about sex offender registration? (Penal Code, § 290)

If the court seals a record that required you to register as a sex offender, the order will say you do **not** have to continue to register.

If your records are sealed, do you have to report the offenses in the sealed records on job, school, or other applications?

No. Once your records are sealed, the law treats those offenses as if they did not occur. **However**, the military and some federal agencies will not recognize sealing of records and will require you to report all juvenile records, even if sealed, if you are seeking to enlist or apply for a job requiring you to provide information about your juvenile records.

Questions?

If you are not sure if you qualify to seal your records or if you have other questions, talk to a lawyer. The court is not allowed to give you legal advice. More information on sealing your records can be found at www.courts.ca.gov/28120.htm.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL 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: _____	
CASE NAME: _____	
DISMISSAL AND SEALING OF RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 786	CASE NUMBER: _____

1. Name of subject child: _____ Date of birth: _____
2. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
3. The court has read and considered the report of the probation officer and any other evidence presented or information provided.

THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

4. The child has satisfactorily completed probation or a term of informal supervision.
5. The petition(s) filed on (date(s)): _____ is/are dismissed.

6. The child's juvenile records related to the arrest(s) on (date(s)): _____ regarding an alleged violation of (specify offense(s)): _____ in the custody of this court and of the courts, agencies, and officials listed below are ordered sealed:

- Probation Dept. (specify county): _____
- California Dept. of Justice
- Law enforcement agency (specify all): _____
 Law enforcement case number(s): _____

7. The court finds that sealing the following additional public agency records will promote the successful reentry and rehabilitation of the subject child and orders the records in their custody relating to petitions and arrests listed in 5. and 6 sealed:

- District Attorney (specify county): _____
- Child's Attorney (name): _____
- School: _____
- Department of Motor Vehicles: _____
- Other (specify): _____
- Attachment

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

8. All records pertaining to the dismissed petition are to be destroyed according to Welfare and Institutions Code section 781(d), and the arrest is deemed never to have occurred except that the prosecuting attorney, the probation officer, and the court may access these records for the specific purposes stated in Welfare and Institutions Code section 786 and no records shall be destroyed before the subject child has attained 18 years of age.

- a. Date court records must be destroyed:
- b. Date all other records must be destroyed:

Date:

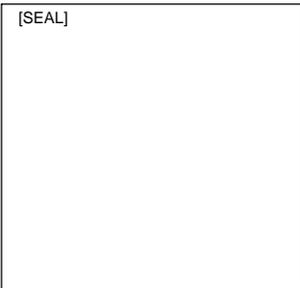
JUDICIAL OFFICER

9. The clerk shall send a certified copy to the clerk in each county in which a record is ordered sealed and a copy to the child, the child's attorney, and each agency and official listed above.

Date:



JUDICIAL OFFICER OF THE SUPERIOR COURT



CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date:

Clerk, by _____, Deputy

JV-596-INFO Sealing of Records at Termination and Dismissal

In many cases, the court will seal your records.

If your case is dismissed by the juvenile court after January 1, 2015, because you satisfactorily completed your probation and were NOT found to have committed an offense listed in Welfare and Institutions Code section 707 (b) (these are violent offenses such as killing, raping, or kidnapping, and also some offenses involving drugs or weapons) when you were 14 or older, you do not need to ask the court to seal your court, probation, or law enforcement records because the court will have sealed your records. You should have received a copy of the order. If the court finds that you have *not* satisfactorily completed your probation, it will not dismiss your case and will *not* seal your records at termination. If you want to have your records sealed in this situation, you will need to ask the court to seal your records at a later date (see Form JV-595-INFO for more information about asking the court to make your records private).

How will the court determine if probation is satisfactorily completed?

If you have done what you were ordered to do while on probation, and have not been found to have committed any further crimes (felonies or any misdemeanors for crimes involving moral turpitude, such as a sex crime or a crime involving dishonesty), the court will find that your probation was satisfactorily completed even if you still owe restitution, court ordered fees, and fines, **BUT...**

Restitution and court fines and fees must still be paid.

Even if your records are sealed, you are still required to pay your restitution and court-ordered fees and fines. Your sealed records can be looked at to enforce those orders.

Which records will be sealed?

The court will order your court, probation, Department of Justice, and law enforcement agency records sealed for the case the court is closing and prior cases if the court determines you are eligible. If you or your attorney ask the court, it can also seal records of other agencies (such as the District Attorney or your attorney) if it finds that doing so would help you to be rehabilitated.

If you have more than one juvenile case and are unsure which records were sealed, ask your attorney or probation officer.

Who can see your sealed records?

- If your records were sealed by the court at dismissal, the prosecutor and others can look at your record to determine if you are eligible to participate in a deferred entry of judgment or informal probation program (diversion).
- If you apply for benefits as a nonminor dependent, the court may see your records.
- If a new petition is filed against you for a felony offense, probation can look at what programs you have participated in, but cannot use that information to keep you in juvenile hall or to punish you.
- If you have been found to have committed a felony by the juvenile court, your sealed records can be viewed to determine what disposition (sentence) the court should order.
- If you are arrested for a new offense and the prosecuting attorney asks the court to transfer you to adult court, your record can be reviewed to determine if transfer is appropriate.
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

NOTE: Even if someone looks at your records in one of these situations, your records will stay sealed in the future and you do not need to ask the court to seal them.

If your records are sealed, do you have to report the offenses in the sealed records on job, school, or other applications?

No. Once your records are sealed, the law treats those offenses as if they did not occur. **However**, the military and some federal agencies will not recognize sealing of records and will require you to report all juvenile records, even if sealed, if you are seeking to enlist or apply for a job requiring you to provide information about your juvenile records.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL 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: _____	
CASE NAME: _____	
JUVENILE WARDSHIP PETITION <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602(a)	CASE NUMBER: _____

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (<i>check applicable boxes; see attachments for concise statements of facts</i>): <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a) Violation (<i>specify code section</i>): _____			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a).			
c. Child's name and address: _____	d. Age: _____	e. Date of birth: _____	f. Sex: _____
g. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
i. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (<i>if known</i>): Address: _____ Phone number: _____	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained. Date and time of detention (<i>custody</i>): _____ Current place of detention (<i>address</i>): _____		

(See important notices on page 2.)

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

- 2. Petitioner requests that the court find these allegations to be true.
- 3. Petitioner requests a hearing to determine whether the child is a fit and proper subject under juvenile court law under Welfare and Institutions Code section 707(a)(1) 707(a)(2) 707(c).

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

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF PETITIONER)

Indian Child Inquiry Attachment (form ICWA-010(A)) is completed and attached.

Number of pages attached: _____

TO PARENTS OR OTHERS LEGALLY RESPONSIBLE FOR THE SUPPORT OF THE CHILD

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for your child or you by a public defender or other attorney, the cost of supervision of your child by order of the juvenile court, and the cost of any restitution owed to the victim.

RECORD SEALING

The court may seal your records at the conclusion of your case or you may request sealing at a later date. Please see form JV-595-INFO, *How to Make Your Juvenile Records Private*, and form JV-596-INFO, *Sealing of Records at Termination and Dismissal*, available through your attorney or www.courts.ca.gov/forms.htm, for more information about record sealing.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Juvenile Dependency Petition §300(b) Allegation for Commercially Sexually Exploited Children(CSEC)

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Staff contact (name, phone and e-mail): Chris Cleary, 415-865-8792, christine.cleary@jud.ca.gov

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

Approved by RUPRO: N/A This project is on the proposed annual agenda to be reviewed by RUPRO on December 10, 2015 .

Project description from annual agenda: Juvenile Dependency: Commercially Sexually Exploited Children (CSEC)

In 2014, SB 855 (Stats. 2014, ch. 29) established the new California Commercially Sexually Exploited Children (CSEC) Program within the California Department of Social Services (CDSS) to support prevention, intervention, services, and training to more effectively address CSEC in this state. The legislation also amended Welfare and Institutions Code section 300 to include section 300(b)(2), which specifically acknowledges that CSEC can come into the system through the juvenile dependency portal, recognizing CSEC as victims rather than perpetrators. This proposal would amend Form JV-121, which currently includes the allegations corresponding to section 300(b)(1), to additionally provide the basic statutory allegations from the new section 300(b)(2), which reads: "The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children."

If requesting July 1 or out of cycle, explain:

Technical changes were able to be made on two of the forms in time to meet the January 1, 2016, effective date. This form was more complicated and needed to be put in this cycle, with a July 1, 2016, effective date, along with a technical fix on another form that was inadvertently left out of the technical package.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Juvenile Dependency Petition § 300(b) Allegations for Commercially Sexually Exploited Children (CSEC)	Review and submit comments by January 22, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend forms JV-101(A) and JV-121	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Chris Cleary, 415-865-8792 christine.cleary@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

Executive Summary and Origin

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

The Proposal

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

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

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

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

Alternatives Considered

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

Implementation Requirements, Costs, and Operational Impacts

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

Request for Specific Comments

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

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

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

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

Attachments and Links

1. Proposed revisions to form JV-121, at page 4.

2. Proposed revisions to form JV-101(A), at page 5
3. SB 855: http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0851-0900/sb_855_bill_20140620_chaptered.pdf (Please note that this is a budget trailer bill that has many, many items in it. The relevant pages for the CSEC material are pp. 114-15; 139-41.
4. W&I s.300(b)(2): <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=300-304.7>

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

FAILURE TO PROTECT
§ 300(b)

§ 300(b)(1)

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

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

§ 300(b)(2)

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

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

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

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

4. Petitioner on information and belief alleges the following:

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

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

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

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10 - 11, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):
Juvenile Law: Delinquency Defense Attorney Qualifications

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

Staff contact (name, phone and e-mail): Nicole Giacinti, (415)865-7598, nicole.giacinti@jud.ca.gov

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

Approved by RUPRO:

Project description from annual agenda: The Family and Juvenile Law Advisory Committee proposes adding a new rule to the California Rules of Court, rule 5.664, and an optional form, JV-700, to conform to recent statutory changes that establish training requirements for attorneys who represent delinquent youth pursuant to Welfare and Institutions Code section 600.

If requesting July 1 or out of cycle, explain:

Assembly Bill 703 (Bloom; Stats 2015, ch. 369) added section 634.3 to the Welfare and Institutions Code in order to establish training requirements for attorneys who are appointed to represent delinquent youth. Section 634.3 mandates establishment of a minimum number of training hours that attorneys must complete prior to assuming representation of delinquent youth, as well as establishment of topics that must be included in the training. Assembly Bill 703 requires the Judicial Council to adopt a rule, effective July 1, 2016, to establish the training requirements and standards of representation for attorneys who represent delinquent youth.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Juvenile Law: Delinquency Defense Attorney Qualifications	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes Adopt Cal. Rules of Court, rule 5.664 and approve form JV-700	Proposed Effective Date July 1, 2016
Proposed by Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Contact Nicole Giacinti nicole.giacinti@jud.ca.gov (415) 865-7598

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes adopting rule 5.664 of the California Rules of Court, and optional form JV-700, *Declaration of Eligibility to Represent Youth in Delinquency Court*, to conform to recent statutory changes that establish training requirements for attorneys who represent delinquent youth pursuant to Welfare and Institutions Code section 600.

Background

Assembly Bill 703 (Bloom; Stats 2015, ch. 369) added section 634.3 to the Welfare and Institutions Code in order to establish training requirements for attorneys who are appointed to represent delinquent youth.¹ Section 634.3 mandates establishment of a minimum number of training hours that attorneys must complete prior to assuming representation of delinquent youth, as well as establishment of topics that must be included in the training. The Judicial Council is required to adopt rules of court to implement the requirements set forth in section 634.3. Accordingly, rule 5.664 specifies the topic areas and minimum hours of training attorneys representing delinquent youth are required to complete. Optional form JV-700 can be used by courts to insure compliance with the standards set forth in rule 5.664.

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise stated.

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

The Proposal

The addition of rule 5.664 and one optional form JV-700 to the Rules of Court will ensure conformance with the recently enacted provisions of Welfare and Institutions Code section 634.3, which require attorneys representing delinquent youth to meet certain training standards and requirements.

The Family and Juvenile Law Advisory Committee proposes that rule 5.664 of the California Rules of Court contain the following information in conformance with recent statutory changes:

- Rule 5.664 defines “competent counsel” as an attorney who is a member in good standing of the State Bar of California, who provides representation in accordance with Welfare and Institutions Code section 634.3(a)(1)-(3), and who has participated in the training requirements set forth in rule 5.664. The rule provides that the court may require evidence of the competency of an attorney appointed to represent a youth in a delinquency proceeding.

Newly enacted section 634.3 states that counsel appointed to represent youth in proceedings pursuant to section 601 or 602 must “provide effective, competent, diligent, and conscientious advocacy....” Including this definition in rule 5.664 will conform the Rules of Court to this new statutory requirement.

- Rule 5.664 establishes that attorneys who represent delinquent youth must complete a minimum of 12 hours of training or education in the area of juvenile law prior to representing delinquent youth and five [or eight] hours each year thereafter. This requirement conforms to the mandate in section 634.3 that “minimum hours of training and education be established” for attorneys who represent delinquent youth.
- Rule 5.664 specifies the following topic areas that must be included in the 12 hours of training and education: an overview of delinquency law; adolescent development; education, special education, and school discipline; competence and mental health issues, including the capacity to commit a crime and the effect of trauma, child abuse, and family violence; counsel’s ethical duties; cultural competency and sensitivity to providing adequate care to lesbian, gay, bisexual, and transgender youth; immigration consequences and the requirements of Special Immigrant Juvenile Status; advocacy in the postdispositional phase; appellate advocacy; direct and collateral consequences of court involvement; securing effective rehabilitative resources; fitness hearing; and, trial skills.

Newly enacted section 634.3 mandates that “required training areas” include but not be limited to “an overview of juvenile delinquency law and procedure, child and adolescent development, special education, competence and mental health issues, counsel’s ethical duties, advocacy in the postdispositional phase, appellate issues, direct and collateral consequences of court involvement for a minor, and securing effective rehabilitative resources.” Elucidating the training areas listed above in rule 5.664 will conform the Rules of Court to the statutory requirements of section 634.3.

The Family and Juvenile Law Advisory Committee also proposes approval of a new optional form, JV-700, *Declaration of Eligibility to Represent Youth in Delinquency Court*, that can be used by courts to confirm that attorneys representing delinquent youth have complied with the training standards set forth in rule 5.664, including completing continuing education requirements. This form was modeled on local forms used by dependency courts to confirm compliance with training requirements in that field.

Implementation Requirements, Costs, and Operational Impacts

This proposal may result in minimum additional record keeping if the presiding judge of the juvenile court elects to request use of JV-700 and therefore copies need to be stored.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Are there knowledge areas integral to the practice of juvenile law that are not included in the enumerated training topic areas included?
- Is 12 hours of initial training in the listed topics sufficient and is it a standard that attorneys across the state can reasonably meet? If 12 hours is not enough, please explain why and provide an alternative suggestion. If 12 hours is too much, please explain why it is excessive and provide an alternative suggestion.
- Is the experience alternative that allows attorneys who have dedicated at least 50% of their practice over the three most recent years to opt of the initial training requirement sufficient to ensure the high standard of representation required by AB703/Welfare and Institutions Code section 634.3?
- What is the appropriate amount of ongoing training that should be required for attorneys who represent delinquent youth?
- Should proof of compliance with ongoing training requirements be required annually or every three years? If it is required every three years, should that three year cycle follow the attorney's MCLE compliance cycle or should it be three years from the date the attorney became eligible to represent delinquent youth?
- Should item number 1b. on proposed form JV-700 provide additional guidance to attorneys about what information to include?
- Is the format of item number 3 on form JV-700 sufficient? Instead of having two checkboxes, should it simply state that the court may request additional documentation?

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

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

Attachments and Links

1. Proposed Cal. Rules of Court, rule 5.664 at pages 5-6
2. Proposed new form, JV-700 at page 7
3. Assembly Bill 703,
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB703

1 **Rule 5.664. Training requirements for children’s counsel in delinquency**
2 **proceedings (§§634.3)**

3
4 **(a) Definition**

5
6 "Competent counsel" means an attorney who is a member in good standing of the
7 State Bar of California, who provides representation in accordance with Welfare &
8 Institutions Code section 634.3(a)(1)-(3), and who has participated in training in the
9 law and practice of juvenile delinquency as defined in this rule.

10
11 **(b) Education and training requirements**

12
13 (1) Only those attorneys who have dedicated at least fifty percent of their practice
14 during each of the most recent three calendar years to juvenile delinquency and
15 demonstrated competence, or who have completed a minimum of twelve hours
16 of training or education during the most recent twelve month period in the area
17 of juvenile delinquency may be appointed to represent youth.

18
19 (2) Attorney training must include:

20
21 (A) An overview of delinquency law and related statutes and cases;

22
23 (B) Trial skills, including instruction on pretrial motions, introducing evidence
24 at trial, preserving the record for appeal, filing writs and notices of appeal,
25 and post-trial motions;

26
27 (C) Child and adolescent development, including training on interviewing and
28 working with adolescent clients;

29
30 (D) Competence and mental health issues, including capacity to commit a
31 crime and the effects of trauma, child abuse and family violence, and cross-
32 over issues presented by youth involved in the dependency system;

33
34 (E) Counsel’s ethical duties, including racial, ethnic, and cultural understanding
35 and addressing bias;

36
37 (F) Cultural competency and sensitivity relating to, and best practices for,
38 providing adequate care to lesbian, gay, bisexual, and transgender youth;

39
40 (G) Understanding the effects of, and working with, victims of human
41 trafficking and commercial sexual exploitation of children and youth;

1 (H) Immigration consequences and the requirements of Special Immigrant
2 Juvenile Status;

3
4 (I) General and special education, including information on school discipline;

5
6 (J) Substance abuse;

7
8 (K) Securing effective rehabilitative resources, including information on
9 available community based resources;

10
11 (L) Direct and collateral consequences of court involvement;

12
13 (M) Fitness hearings;

14
15 (N) Appellate advocacy;

16
17 (O) Advocacy in the postdispositional phase;

18
19
20 **(c) Continuing education and training requirements**

21
22 (1) Every calendar year, each attorney must complete at least eight hours of
23 continuing education in the areas listed in (2).

24
25 (2) It is the responsibility of each individual attorney to comply with the training
26 requirements in this rule; however, offices of the public defender, and other
27 agencies that work with delinquent youth, are encouraged to provide MCLE
28 training that meets the training requirements in (b)(2).

29
30 (3) Each individual attorney is encouraged to participate in policy meetings or
31 workgroups convened by the juvenile court and participate in local trainings
32 designed to address county needs.

33
34 **(d) Evidence of competency**

35
36 The court may require evidence of the competency of any attorney appointed to
37 represent a youth in a delinquency proceeding, including providing documentation
38 of trainings attended. The court may also require attorneys who represent youth in
39 delinquency proceedings to complete *Declaration of Eligibility to Represent Parties*
40 *in Delinquency Court (JV-700).*

ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____	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: _____	
DECLARATION OF ELIGIBILITY TO REPRESENT YOUTH IN DELINQUENCY COURT	

I, (name) _____ (office address), _____
 (phone number) _____, am an attorney at law licensed to practice in the state of California. My state bar number is _____. I declare that, in compliance with the requirements in Welfare and Institutions Code section 634.3 and Rule 5.664, I completed the minimum requirements for training, education, and or experience as set forth below.

1. Initial Eligibility For Attorney

I declare that:

a. I am eligible for appointment to represent youth in delinquency proceedings because I have completed a minimum of twelve (12) hours of training or education in the areas of juvenile law listed in rule 5.664(b)(2): *(please list trainings, including dates):*

or

b. I am able to show that I have dedicated at least fifty percent of my practice during each of the most recent three calendar years to juvenile delinquency and I have demonstrated competency in the practice of juvenile delinquency law, as described here:

2. Continuing Attorney

I declare that in the past twelve months, from _____ to _____, I have completed eight (8) hours of continuing training that meets the requirements set forth in rule 5.664(c): *(please list trainings, including dates):*

3. Documentation

The court has not requested documentation.

declare that I understand this certification must be renewed every twelve months, as long as I represent any youth in a delinquency proceeding.

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

Executed this _____ day of _____, _____, at _____, California.
(month) year city

Business Address:

Business Phone:

 Signature

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Title:

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

Proposed Rules, Forms, Standards, or Statutes: Amend rule 2.257

Committee or other entity submitting the proposal:

Family & Juvenile Law Advisory Committee

Information Technology Advisory Committee

Staff contact (name, phone and e-mail):

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

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

Approved by RUPRO:

RUPRO will review FamJuv's 2016 Annual Agenda on 12/10/2016, which will include this proposal that is needed to implement recently enacted legislation (AB 1519).

JCTC approved ITAC's 2015 Annual Agenda on 2/9/2015; ITAC will carry over this item onto the 2016 Annual Agenda (to be reviewed by JCTC in January 2016)

Project description from annual agenda:

Family and Juvenile Law Advisory Committee's (proposed) 2016 Annual Agenda Item:

Provide subject matter expertise to the council by reviewing recent legislative changes directing Judicial Council action or as compiled by the Office of Governmental Affairs, and developing rules or form proposals as appropriate. Legislation for considerations includes:

AB 1519 (Committee on Judiciary) Judiciary omnibus: family support

Chapter 416, Statutes of 2015

Summary: Amends Family Code section 17400(a)(3) to provide that local child support agencies (1) are required to maintain original signed pleadings only for the time period stated in Government Code section 68152(a); and (2) may maintain original signed pleadings by way of an electronic copy in the Statewide Automated Child Support System. AB 1519 requires the Judicial Council to develop implementing rules by July 1, 2016.

Information and Technology Advisory Committee's 2015 Annual Agenda Item:

Modernize Rules of Court Modernize Trial and Appellate Court Rules to Support E-Business Major Tasks: (a) In collaboration with other advisory committees, review rules and statutes in a systematic manner and develop recommendations for comprehensive changes to align with modern business practices (e.g., eliminating paper dependencies).

If requesting July 1 or out of cycle, explain:

This rules proposal implements legislation enacted by the Legislature this year. AB 1519 instructs the Judicial Council to adopt implementing rules by July 1, 2016.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

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

Action Requested

Review and submit comments by January 22, 2016

Proposed Effective Date

July 1, 2016

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 2.257

Contact

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

Proposed by

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

Information Technology Advisory Committee
Hon. Terence L. Bruiniers, Chair

Executive Summary

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

Background

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

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

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

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

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

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

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

Second, whereas Code of Civil Procedure section 1010.6(b)(2)(B) provides that the signed, printed form must be maintained and made available for review upon request without specifying

when, if ever, the printed document may be destroyed, Family Code section 17400(b)(3) provides that local child support agencies need to maintain the original signed pleadings only for the statutory retention periods for trial court records stated in Government Code section 68152(a). The retention period, which begins upon final disposition of the case, is 30 years for court records in family cases; for adoption and parentage cases, the records are maintained permanently. (Gov. Code, § 68152(a)(7)–(9).)

The Proposal

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

This rule proposal would add a sentence to subdivision (a)(2) to recognize that “[l]ocal child support agencies may maintain original signed pleadings by way of an electronic copy in the Statewide Automated Child Support System and must maintain them only for the period of time stated in Government Code section 68152(a).”

Alternatives Considered

Because the proposed rule amendments are mandated by legislation, the advisory committees did not consider any alternatives.

Implementation Requirements, Costs, and Operational Impacts

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

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

Attachment and Link

1. Cal. Rules of Court, rule 2.257, at pages 4–5
2. AB 1519,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1519

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

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

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

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

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

31
32 **(b) * * ***

33
34 **(c) * * ***

35
36 **(d) * * ***

37
38 **(e) * * ***

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (include amend/revise/adopt/approve + form/rule numbers):

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

Committee or other entity submitting the proposal:

Family and Juvenile Law Advisory Committee
Information Technology Advisory Committee

Staff contact (name, phone and e-mail): Diana Glick, 916-643-7012, diana.glick@jud.ca.gov and Tara Lundstrom, 415-865-7650, tara.lundstrom@jud.ca.gov

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

Approved by RUPRO: RUPRO will review FamJuv's 2016 Annual Agenda on 12/10/2016, which includes this proposal that is needed to implement legislation (AB 879), effective January 1, 2016.

JCTC approved ITAC's 2015 Annual Agenda on 2/9/2015; ITAC will carry over this item onto the 2016 Annual Agenda (to be reviewed by JCTC in January 2016)

Project description from annual agenda: Family and Juvenile Law Advisory Committee's (proposed) 2016 Annual Agenda Item:

Provide subject matter expertise to the council by reviewing recent legislative changes directing Judicial Council action or as compiled by the Office of Governmental Affairs, and developing rules or form proposals as appropriate. Legislation for considerations includes:

AB 879 (Burke) Juveniles: court proceedings: notice
Chapter 219, Statutes of 2015

Summary: Allows service of notice of hearings in specified dependency matters to be done by electronic mail, provided that the county, court, and parties are all willing to accept service electronically.

Information and Technology Advisory Committee's 2015 Annual Agenda Item:

Modernize Rules of Court Modernize Trial and Appellate Court Rules to Support E-Business Major Tasks: (a) In collaboration with other advisory committees, review rules and statutes in a systematic manner and develop recommendations for comprehensive changes to align with modern business practices (e.g., eliminating paper dependencies).

If requesting July 1 or out of cycle, explain:

Law will go into effect on January 1, 2016, and the committees want to provide guidance and forms to local courts and social services agencies as soon as possible after that date.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Juvenile Law: Notice of Juvenile Hearings by E-Mail (Implementation of AB 879)	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708, 5.815; approve form EFS-005-JV/JV-141; renumber form EFS-005	July 1, 2016
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Diana Glick, 916-643-7012 diana.glick@jud.ca.gov Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov
Information Technology Advisory Committee Hon. Terence L. Bruiniers, Chair	

Executive Summary and Origin

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

Background

Code of Civil Procedure section 1010.6 and trial court rules 2.250–2.261 authorize electronic filing and electronic service in civil matters. On July 1, 2014, the Judicial Council amended rule 5.522 to expressly enable the electronic filing of juvenile court documents in accordance with the trial court rules, specifically rules 2.252 et seq. However, trial court rule 2.251 on electronic

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

service was expressly excluded. As rule 5.522(b)(4) states, “[t]his rule does not incorporate the electronic service provisions in rule 2.251.” Rule 2.251 authorizes electronic service in those courts that allow or require electronic filing, and sets forth technical requirements for electronic service.

Legislative Framework

Assembly Bill 879 (Stats. 2015, ch. 219) amends six statutory provisions that govern how probation officers, social workers, and juvenile courts provide notice of a variety of different hearings in juvenile proceedings. The amended statutes authorize notice of specified hearings by e-mail and allow persons entitled to notice in these hearings to provide an e-mail address to the court for this purpose. The amendments will be in force as of January 1, 2016, and the affected code sections will revert back to current law on January 1, 2019, in the absence of legislation to remove the sunset clause or to extend the changes for an additional time period.

The County Welfare Directors Association of California and the Los Angeles County Board of Supervisors jointly sponsored AB 879, which was authored by Assembly Member Autumn Burke. The intent of the bill, according to the Los Angeles County Board of Supervisors, was to “modernize the process of providing notice in child welfare dependency court hearings ... help to ensure parties receive notice, and ... help to provide more timely permanence, stability and safety for children.” The Judicial Council supported the legislation. There was no registered opposition.

The bill authorizes notice by e-mail in the following types of juvenile dependency hearings: detention, jurisdiction, disposition, review, and termination of jurisdiction. In order to provide notice of hearing by e-mail, two essential conditions must be met: (1) the court and the agency providing notice must choose to allow notice by e-mail; and (2) those persons who are entitled to notice of the hearing must have affirmatively consented to receive e-mail notice using the EFS-005.

The amended statutes also authorize providing notice by e-mail, *in addition to* U.S. mail, for “selection and implementation” (permanency) hearings in relation to which a social worker will recommend the termination of parental rights.

There are additional protections for minors who are entitled to receive notice. Only minors who are 14 years of age or older may consent to receive notice of hearing by e-mail. When a minor gives such consent, his or her attorney must also consent to the minor receiving e-mail notice of hearing. Minors who are 16 or 17 years old may consent to receive notice of hearing only by e-mail, while minors who are 14 or 15 years old and provide this consent will receive notice by both electronic and regular mail. Finally, the provisions authorizing notice of hearing by e-mail do not apply when the court or agency providing notice knows or has reason to know that an Indian child is involved in the proceedings.

The Proposal

The provisions of AB 879 apply to a defined set of hearings conducted for children in the juvenile dependency system and authorize notice by e-mail for those hearings specified in statute. The ability to receive notice of hearings by e-mail extends not only to parties to the case, but to all persons entitled to notice, which for juvenile court hearings can include legal guardians, siblings, caregivers, and others. Several of these juvenile court hearings are noticed by non-court entities, such as probation and child welfare departments. The advisory committees recommend making the following changes to the title 5 rules of court:

Rule 5.524(e)

Number the existing paragraph as (1) and add a paragraph (2) to require courts that choose to offer notice of hearing by e-mail to develop a process for obtaining consent from persons entitled to notice and a process for communicating with other agencies that provide notice when consent is given.

Rule 5.534

Add a paragraph to rule 5.534(m) to indicate that in those counties in which notice via e-mail is offered, a person entitled to notice may use form EFS-005-JV/JV-141 to provide consent and an e-mail address to the court.

Rule 5.550(a)(6)

Delete paragraph (6) in order to eliminate an outdated cross-reference to rule 5.667 and an inconsistency between rule 5.550 and Welfare and Institutions Code section 316.2 with regard to the effect of the failure of an alleged father to return a certified mail receipt of notice. In cases in which a continuance of a hearing pursuant to section 316.2, 352, or 354 is requested, rule 5.550(a)(6) states that “[f]ailure of an alleged father to return a certified mail receipt of notice as described in rule 5.667 does not, in and of itself, constitute good cause to continue a hearing.” This notice is one required to be provided to each alleged father “alleging that he is or could be the father of the child.” (§ 316.2(b).) Rule 5.667 does not require or describe any sort of notice via certified mail, so this appears to be an outdated reference. In addition, the enabling statute for this rule, section 316.2(c) states that “The court *may determine* that the failure of an alleged father to return the certified mail receipt *is not good cause* to continue a hearing pursuant to Section 355, 358, 360, 366.21, or 366.22.” (Emphasis added.)

Rule 5.708(n)(5)

Eliminate notice by mail requirement and make direct reference to notice of hearing being provided pursuant to Welfare and Institutions Code section 294.

Rule 5.815(d)

Delete reference in the rule to Probate Code section 1511 and instead reference Welfare and Institutions Code section 294, in accordance with the language of the rule’s enabling statute.

The advisory committees recommend the following changes to Judicial Council forms:

Form EFS-005-JV/JV-141

The statutes amended by AB 879 specifically mandate that consent to receive notice of hearing by e-mail be provided on the EFS-005. The EFS-005 allows litigants and attorneys in civil litigation to provide an “electronic service address,” which does not necessarily equate to an e-mail address. In addition, “electronic service” is a broader concept than notice of a hearing, which is the sole focus of AB 879. Therefore, the advisory committees propose creating a new optional form EFS-005-JV/JV-141, *E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile)*. This form would enable persons entitled to notice in juvenile court proceedings to give consent to receive notice by e-mail and provide the court with a current e-mail address. New optional form EFS-005-JV/JV-141 would also allow persons entitled to notice in juvenile court proceedings to notify the court of a change in the e-mail address for receiving electronic notices of hearings. Finally, this form would allow persons entitled to notice in juvenile court proceedings who have previously provided consent to receive notices of hearing by email to withdraw that consent.

Renumbering existing form EFS-005 as EFS-005-CV

The advisory committees recommend renumbering the current form EFS-005 as EFS-005-CV and preserving its content, since it remains applicable in the civil context.

Alternatives Considered

Although the legislation does not mandate that notice of juvenile court hearings be provided by e-mail, once a court and social service agency in a county have jointly decided to offer notice by e-mail, there are requirements in the code that dictate how consent must be given and place limits on the ability to notice exclusively by e-mail. Within these parameters, the committees considered an alternative proposal that would add language to the existing EFS-005 and EFS-010 to allow persons entitled to notice in juvenile hearings to provide consent to receive notice of hearing by e-mail, to provide an e-mail address to the court, and to change their e-mail address on file with the court. The committees ultimately decided that creating a separate version of the EFS-005 specifically for juvenile hearings was the most efficient and expedient way to ensure a workable process in the juvenile court, without impacting current civil law forms.

Implementation Requirements, Costs, and Operational Impacts

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

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Are the name “*E-Mail Notice of Hearing: Consent, Withdrawal of Consent, Address Change (Juvenile)*” and number “EFS-005-JV/JV-141” clear enough to signal that this is a juvenile form?
- Is the EFS-005-JV/JV-141 as drafted, sufficiently clear for the use of all persons who may be entitled to notice in a juvenile court hearing, including children?
- Is the information on the second page of the proposed EFS-005-JV/JV-141 sufficient to help those persons entitled to notice in a juvenile court hearing understand the requirements for receiving notice by e-mail?
- Is the proposed addition to rule 5.524(e) sufficient to ensure that courts will create a process and protocols for obtaining consent and communicating with justice partners, while still allowing for local court discretion in the exact parameters of the process?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

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

Attachments and Links

1. Proposed amendments to Cal. Rules of Court, rules 5.524, 5.534, 5.550, 5.708 and 5.815, at pages 6–9
2. Proposed forms EFS-005-JV/JV-141 and EFS-005-CV, at pages 10–13
3. AB 879,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB879
4. Welfare and Institutions Code sections 290.1–295,
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=2.&title=&part=1.&chapter=2.&article=5.5
5. Welfare and Institutions Code section 316.1,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=316.1.&lawCode=WIC

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

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

2
3 (a)–(d) * * *

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

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

12
13 (2) If the county, or city and county, and the court choose to allow notice by
14 electronic mail of hearings under sections 290.1–295, the court must develop
15 a process for obtaining consent from persons entitled to notice and
16 communicating with the entities that may provide notice of a hearing when
17 consent is given.

18
19 (f)–(h) * * *

20
21 **Rule 5.534. General provisions-all proceedings**

22
23 (a)–(l) * * *

24
25 (m) **Address of parent or guardian—notice (§ 316.1)**

26
27 At the first appearance by a parent or guardian in proceedings under section 300 et
28 seq., the court must order each parent or guardian to provide a mailing address.

- 29
30 (1) The court must advise that the mailing address provided will be used by the
31 court, the clerk, and the social services agency for the purposes of notice of
32 hearings and the mailing of all documents related to the proceedings.
33
34 (2) The court must advise that until and unless the parent or guardian, or the
35 attorney of record for the parent or guardian, submits written notification of a
36 change of mailing address, the address provided will be used, and notice
37 requirements will be satisfied by appropriate service at that address.
38
39 (3) *Notification of Mailing Address* (form JV-140) is the preferred method of
40 informing the court and the social services agency of the mailing address of
41 the parent or guardian and change of mailing address.
42
43 (A) The form must be delivered to the parent or guardian, or both, with the
44 petition.
45

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

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

6
7 (4) If the county, or city and county, and the court allow notice of hearings under
8 sections 290.1–295 by electronic mail, those persons who are entitled to
9 notice may provide consent to service of notice of court proceedings via e-
10 mail by signing *E-Mail Notice of Hearing: Consent, Withdrawal of Consent,*
11 *Address Change (Juvenile)* (form EFS-005-JV/JV-141).
12

13 (n)–(p) * * *

14
15 **Rule 5.550. Continuances**

16
17 (a) **Cases petitioned under section 300 (§§ 316.2, 352, 354)**

18
19 (1) The court must not continue a hearing beyond the time set by statute unless
20 the court determines the continuance is not contrary to the interest of the
21 child. In considering the child’s interest, the court must give substantial
22 weight to a child’s needs for stability and prompt resolution of custody status,
23 and the damage of prolonged temporary placements.

24
25 (2) Continuances may be granted only on a showing of good cause, and only for
26 the time shown to be necessary. Stipulation between counsel of parties,
27 convenience of parties, and pending criminal or family law matters are not in
28 and of themselves good cause.

29
30 (3) If a child has been removed from the custody of a parent or guardian, the court
31 must not grant a continuance that would cause the disposition hearing under
32 section 361 to be completed more than 60 days after the detention hearing
33 unless the court finds exceptional circumstances. In no event may the
34 disposition hearing be continued more than six months after the detention
35 hearing.

36
37 (4) In order to obtain a continuance, written notice with supporting documents
38 must be filed and served on all parties at least two court days before the date
39 set for hearing, unless the court finds good cause for hearing an oral motion.

40
41 (5) The court must state in its order the facts requiring any continuance that is
42 granted.

43
44 (6) ~~Failure of an alleged father to return a certified mail receipt of notice as~~
45 ~~described in rule 5.667 does not, in and of itself, constitute good cause to~~
46 ~~continue a hearing.~~
47

1 (b)–(c) * * *

2
3 **Rule 5.708. General review hearing requirements**

4
5 (a)–(m) * * *

6
7 (n) **Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

8
9 The court must make the following orders and determinations when setting a
10 hearing under section 366.26:

11
12 (1) The court must terminate reunification services to the parent or legal guardian
13 and:

14
15 (A) Order that the social worker provide a copy of the child’s birth
16 certificate to the caregiver as consistent with sections 16010.4(e)(5) and
17 16010.5(b)–(c); and

18
19 (B) Order that the social worker provide a child or youth 16 years of age or
20 older with a copy of his or her birth certificate unless the court finds
21 that provision of the birth certificate would be inappropriate.

22
23 (2) The court must continue to permit the parent or legal guardian to visit the
24 child, unless it finds that visitation would be detrimental to the child;

25
26 (3) If the child is 10 years of age or older and is placed in an out-of-home
27 placement for 6 months or longer, the court must enter any other appropriate
28 orders to enable the child to maintain relationships with other individuals
29 who are important to the child, consistent with the child's best interest.
30 Specifically, the court:

31
32 (A) Must determine whether the agency has identified individuals, in
33 addition to the child’s siblings, who are important to the child and will
34 maintain caring, permanent relationships with the child, consistent with
35 the child’s best interest;

36
37 (B) Must determine whether the agency has made reasonable efforts to
38 nurture and maintain the child’s relationships with those individuals,
39 consistent with the child’s best interest; and

40
41 (C) May make any appropriate order to ensure that those relationships are
42 maintained.

43
44 (4) The court must direct the county child welfare agency and the appropriate
45 county or state adoption agency to prepare an assessment under section
46 366.21(i), 366.22(c), or 366.25(b);

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

(5) The court must ensure that notice is provided as follows required by section 294.:

(A) ~~Within 24 hours of the review hearing, the clerk of the court must provide notice by first-class mail to the last known address of any party who is not present at the review hearing. The notice must include the advisements required by rule 5.590(b).~~

(B) ~~The court must order that notice of the hearing under section 366.26 not be provided to any of the following:~~

(i) ~~Any parent whether natural, presumed, biological, or alleged who has relinquished the child for adoption and whose relinquishment has been accepted and filed with notice under Family Code section 8700; or~~

(ii) ~~An alleged parent who has denied parentage and has completed item 2 of *Statement Regarding Parentage (Juvenile)* (form JV-505).~~

(6) The court must follow all procedures in rule 5.590 regarding writ petition rights, advisements, and forms.

(o) * * *

Rule 5.815. Appointment of legal guardians for wards of the juvenile court; modification or termination of guardianship

(a)–(c) * * *

(d) **Notice (§ 728(c))**

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

(e)–(g) * * *

Clerk stamps date here when form is filed.

DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL

With this form, you can:

- Tell the court that you want to receive notices of hearings by electronic mail (give consent to e-mail notice) and give the court your e-mail address;
• Change the e-mail address where you want to receive notices of hearings; or
• Tell the court that you do not want to receive e-mail notices of hearing anymore (withdraw your consent to e-mail notice).

- 1 I want to change the e-mail address where I can receive a notice of hearing. I want to receive notices at the new e-mail address below as of the following date:
I want to withdraw my consent to receive notices of hearing by e-mail as of the following date:

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name

Date of Birth:

Court fills in case number when form is filed.

Case Number:

- 2 I am entitled to notice in a juvenile court hearing because I am a (choose one of the following):

- Child who is the subject of the hearing, and I am: 14 or 15 years old 16 or 17 years old

Nonminor dependent who is the subject of the hearing

Parent or presumed/alleged parent (name):

Legal guardian (name):

Lawyer of record in this case (name and party represented):

Grandparent/other adult relative (name and relationship to subject of hearing):

Current caregiver for child or nonminor dependent (name):

Sibling of child who is subject of hearing (name and age, if minor):

Caregiver for sibling of child who is subject of hearing (name):

Lawyer for sibling of child who is subject of hearing (name):

Other (name and relationship to subject of hearing):

- 3 I consent to receive notices of hearings at the following e-mail address (please print carefully): Please keep my e-mail confidential.
I withdraw my consent to receive notices of hearings by e-mail. I am attaching a copy of the Judicial Council form, Notification of Mailing Address (JV-140), with my current mailing address.

Date:

Type or print name

Signature

If you are a child filling out this form, your lawyer must also give consent to the court for you to receive e-mail notices of hearings.

Date:

Type or print name of lawyer for child

Signature of lawyer for child



Child's name: _____

If your court and social services agencies offer e-mail notice of hearing, and you are entitled to receive notices of hearings under Welfare and Institutions Code sections 290.1–295:

- You can (but do not have to) agree to receive notices of hearings by e-mail.
- If you want to receive notices of hearings by e-mail, you must fill out and sign this form, the EFS-005-JV/JV-141, and return it to the court.
- The e-mail address you provide will be used by the court and the social services agency to provide notices of hearings under sections 290.1–295 of the Welfare and Institutions Code. These hearings include an initial hearing to decide whether to remove a child from the custody of his or her parents, the review hearings in juvenile dependency cases, and hearings to determine permanent placement for a child, among others.
- The e-mail address you provide will be used to notify you of hearings unless and until you notify the court of a change in e-mail address.
- You may ask the court or social services agency providing notice to keep your e-mail address confidential by checking the box next to your e-mail address.
- **For a hearing at which a social worker will recommend the termination of parental rights over a child**, notice of the hearing must still be made by mail or in person. An e-mail notice of this type of hearing can only be in addition to another type of notice.
- If you are a child **age 14 or 15** and consent to receive notices of hearings by e-mail, **your lawyer must also sign this form** and provide consent for you to receive notices of hearings by e-mail. Your consent means that you will receive notices of hearings by e-mail *in addition* to notice by regular mail.
- If you are a child **age 16 or 17** and consent to receive notices of hearing by e-mail, **your lawyer must also sign this form** and provide consent for you to receive notices of hearings by e-mail. **Your consent means that you will receive notices of hearings only by e-mail.**
- You also may use this form to notify the court of a **change in e-mail address**.
- You also may use this form to **withdraw your consent** to receive notices of hearings by e-mail. If you have already given the court or social service agency an e-mail address and agreed to receive notices of hearings by e-mail, you can use this form to tell the judge that you no longer want to receive notices of hearings by e-mail. **If you decide to withdraw your consent, please fill out and attach a copy of the Judicial Council form *Notification of Mailing Address (JV-140)* with your current mailing address when you submit this form.**

Advisory Body Name

Annual Agenda—2016

Approved by RUPRO: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. John H. Sugiyama
Staff:	Douglas C. Miller, Senior Attorney, Judicial Council Legal Services Office
<p>Advisory Body's Charge: <i>California Rules of Court, Rule 10.44:</i> Probate and Mental Health Advisory Committee</p> <p>(a) Area of focus The committee makes recommendations to the council for improving the administration of justice in proceedings involving:</p> <ul style="list-style-type: none">(1) Decedents' estates, trusts, conservatorships, guardianships, and other probate matters; and(2) Mental health and developmental disabilities issues. <p>(b) Additional duty The committee must coordinate activities and work with the Family and Juvenile Law Advisory Committee in areas of common concern and interest.</p>	

Advisory Body’s Membership: There are currently 16 members of the committee, allocated in the following membership categories:

- (1) Judicial officer with experience in probate: **4 members**
- (2) Lawyer whose primary practice involves decedents' estates, trusts, guardianships, conservatorships, or elder abuse law; **4 members**
- (3) Lawyer or examiner who works for the court on probate or mental health matters: **4 members**
- (4) Investigator who works for the court to investigate probate guardianships or conservatorships; **1 member**
- (5) Person knowledgeable in mental health or developmental disability law: **1 member***
- (6) Person knowledgeable in private management of probate matters in a fiduciary capacity: **1 member**
- (7) County counsel, public guardian, or other similar public officer familiar with guardianship and conservatorship issues: **1 member**

*The “person knowledgeable in mental health . . . law” is Hon. James N. Bianco, a new member, who is the Presiding Judge of his court’s three-courtroom mental health department. A second member also qualified under this category is Hon. Maria E. Stratton, one of the members listed as qualified under the first membership category. Her prior assignment, before moving to her court’s probate department and thereafter becoming its managing judge, was Assistant Presiding Judge of the mental health department now managed by Judge Bianco.

Subgroups/Working Groups: *[List the names of each subgroup/working group, including groups made up exclusively of advisory body members and joint groups with other advisory bodies, and provide additional information about the subgroups/working groups in Section IV below. To request approval for the creation of a new subgroup/working group, include “new” before the name of the proposed subgroup/working group and describe its purpose and membership in section IV below.¹]*

Subgroup or working group name: Legislation Subcommittee

A new subcommittee created last year, the Special Immigrant Juvenile Status (SIJS) Working Group, has completed its work.

¹ California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

Advisory Body's Key Objectives for 2016:

[An objective is a strategic aim, purpose, or "end of action" to be achieved. Enter as bullet points the advisory body's objectives for the coming year.]

1. Completion and publication of the Third Edition of the Judicial Council's *Handbook for Conservators*.
2. Improvement in practice, access to the courts, court supervision of fiduciaries, and protection of vulnerable persons in court proceedings under the Probate Code.
3. Completion of implementation of the responses to legislative direction in 2014's Senate Bill 873 and 2015's Assembly Bill 900, concerning at-risk immigrant children and young adults in California court proceedings affecting them.
4. Further implementation of the California Conservatorship Jurisdiction Act beyond adoption of the Judicial Council forms specifically mandated by that legislation.
5. Provision of greater efficiencies and cost savings in court management of probate proceedings.

II. ADVISORY BODY PROJECTS

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	Complete Third Edition of the Judicial Council’s <i>Handbook for Conservators</i> , to reflect substantial changes in conservatorship law and practice since the Second Edition was published in 2002; present proposed publication to the Judicial Council for approval; post the approved publication online and make publication available to courts for production of paper copies, as needed for distribution to newly appointed conservators.	1	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal I, Policy 2; Goal IV, Policy 3; Operational Plan, Goal I, Objective 2b; Goal IV, Objective 1f.</p> <p><i>Origin of Project:</i> This project is required by statute, Probate Code sections 1835(a), (c) and (e), which require the Judicial Council to develop and make available to individual courts, and courts to provide to newly-appointed private conservators, an “information package” concerning a conservator’s rights, duties, limitations, and responsibilities under the Guardianship-Conservatorship Law. Since 1992, the information package has taken the form of the <i>Handbook for Conservators</i>.</p> <p><i>Resources:</i> JCSS, Copyediting and advice on changes in format from print to</p>	August 2016 Judicial Council meeting for approval of revised product. Distribution to courts and placement on website by October 1, 2016.	Distribution and publication of electronic version of the <i>Handbook for Conservators</i> for newly appointed conservators and others.

² All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

³ For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>electronic publication and distribution in the absence of a print publication budget.</p> <p>Key Objective Supported: 1</p>		
2.	<p>Implement, in probate guardianship proceedings, the directives contained in SB 873 (Stats. 2014, ch. 685) § 1, which added Chapter 7 to Title 1 of Part 1 of the Code of Civil Procedure, commencing with section 155, concerning findings in state court proceedings involving qualified minors that would support their applications for favored immigration status as Special Immigrant Juveniles (SIJS).</p>	1(b)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal IV, Policy 3; Operational Plan, Goal IV, Objectives 1d and 1f.</p> <p><i>Origin of Project:</i> Project is a response to the 2014 addition of section 155 to the Code of Civil Procedure. Where possible, implementation will be in cooperation and collaboration with similar efforts by the Family and Juvenile Law Advisory Committee; the Center for Families, Children, and the Courts; and the Center for Judiciary Education and Research.</p> <p><i>Resources:</i> Family and Juvenile Law Advisory Committee; Center for Families, Children, and the Courts; and Center for Judiciary Education and Research</p> <p><i>Key Objective Supported:</i> 3.</p>	<p>This is an ongoing project. It has to some extent merged into the next item, a response to additional SIJS legislation, AB 900 (Stats. 2015, ch. 694), which created a new type of guardianship for persons aged 18 to 21 years to facilitate their applications for SIJS findings.</p>	<p>Rules of court and Judicial Council forms to assist persons seeking findings that would support Special Immigrant Juvenile Status in federal immigration proceedings.</p>

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
3.	Develop rules of court and Judicial Council forms as necessary to implement the provisions of AB 900 (Stats. 2015, ch. 694), which creates a new type of guardianship of the person for persons 18 to 21 years of age “in connection with a petition to make the necessary findings regarding special immigrant juvenile status pursuant to subdivision (b) of Section 155 of the Code of Civil Procedure.”	1(b)	<p><i>Judicial Council Direction:</i> Strategic Plan Goal IV, Policy 3; Operational Plan, Goal IV, Objectives 1d and 1f.</p> <p><i>Origin of Project:</i> Probate Code section 1510.1(e), added by section 3 of AB 900</p> <p><i>Resources:</i> Family and Juvenile Law Advisory Committee, CFCC</p> <p><i>Key Objective Supported:</i>3</p>	July 1, 2016, effective date of new rule of court and new or revised forms to enable an application for and an order establishing an adult guardianship or extending a regular guardianship beyond the ward’s 18th birthday.	A rule of court and forms of a petition for appointment of a guardian or extension of a regular guardianship beyond the ward’s 18th birthday, an order, and Letters of Guardianship for the adult guardianship.
4.	Consider Mental Health Issues Implementation Task Force Referrals: Review and consider recommendations referred by the Judicial Council following the task force’s final report to the council. Recommend appropriate action within the committee’s purview (Recommendations 24–26 of the 2015 draft of the final report).	1	<p><i>Judicial Council Direction:</i> As referred by the Judicial Council and Strategic Plan, Goal III, Policy 6 Operational Plan, Goal III, Objective B5a</p> <p><i>Origin of Project:</i> The Judicial Council’s Task Forces for Criminal Justice Collaboration on Mental Health Issues and Mental Health Issues Implementation.</p> <p><i>Resources:</i> Center for Families, Children and the Courts (CFCC), Criminal Services Office</p> <p><i>Key Objective Supported:</i> 2 and 5</p>	Ongoing. This project was postponed during 2015 because the task force’s existence was extended and its final report changed to a date in 2016.	Greater coordination of criminal and mental health conservatorship proceedings; legislation to permit joinder of county conservatorship investigator, public guardian or conservator, and private mental health conservators in criminal cases involving (proposed) mental health conservatees; and legislation to permit judicial officers in

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
					<p>criminal cases involving mentally ill criminal defendants to order conservatorship evaluations and filing of mental health conservatorship proceedings.</p>
5.	<p>Review and consider recommendations for changes in law, practice, and procedures in limited conservatorships for the developmentally disabled.</p>	2	<p><i>Judicial Council Direction:</i> CRC, rule 10.44(a)(1) Strategic Plan, Goal I, Policy 10; Goal IV, Policy 3; Operational Plan, Goal I, Objective 3; Goal IV, Objective 1f.</p> <p><i>Origin of Project:</i> This project arose out of a 2014 request from the Abuse & Disability Project of the Spectrum Institute for creation of a limited conservatorship task force modeled after the 2006 Chief Justice’s Probate Conservatorship Task Force. The committee conducted a public portion of its November 2014 meeting to consider the request. The committee does not support creation of a task force, but the issues raised by the Spectrum Institute concerning training of appointed counsel for (proposed) limited conservatees and routine deprivation of voting rights of</p>	Ongoing.	<p>Possible changes in legislation, rules of court, Judicial Council forms, and training of judicial officers, court staff, and court-appointed counsel in limited conservatorship cases.</p>

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>these conservatees by courts, coupled with 2014 and 2015 changes in the law concerning those rights and their role in conservatorship cases (AB 1311 (Stats. 2014, ch. 591), §§ 1, 2, and 4–8; and SB 589 (Stats. 2015, ch. 736), §§ 6.5, 7.5, 8, 9, and 10).</p> <p><i>Resources:</i> Office of Governmental Affairs, Access and Fairness Advisory Committee; CFCC</p> <p><i>Key Objective Supported: 3.</i></p>		
6.	Proposal from Spectrum Institute for rules of court and Standards of Judicial Administration concerning qualifications, continuing education requirements, and performance standards for court-appointed counsel in limited conservatorships.	2(b)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal I, Policy 10; Goal IV, Policy 3; Operational Plan, Goal I, Objective 3; Goal IV, Objective 1f.</p> <p><i>Origin of Project:</i> Spectrum Institute</p> <p><i>Resources:</i> Center for Judiciary Education and Research</p> <p><i>Key Objective Supported: 3</i></p>	This is a two-year project, concluding with effective date of rules of court and Standards of Judicial Administration, if any are proposed, effective January 1, 2018.	If committee determines that they are appropriate, adoption of one or more rules of court and/or Standards of Judicial Administration.

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
7.	Proposals for Judicial Council forms in addition to those specifically mandated by the California Conservatorship Jurisdiction Act (Chapter 8 of Part 3 of Division 4 of the Probate Code, commencing with section 1980), added by SB 940 (Stats. 2014, ch. 553), and possible rules of court to complete implementation of the Act.	1(b)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2 Operational Plan, Goal III, Objective 5.</p> <p><i>Origin of Project:</i> California Conservatorship Jurisdiction Act, SB 940 (Stats. 2014, ch. 553)</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 4</i></p>	This is a two year project, ending with additional forms effective in January 2017 and possibly others in January 2018.	The end product in 2017 is expected to be forms for transfers of conservatorship cases into or out of this state.
8.	Rules Modernization Project – Phase 2 (with ITAC): Statutory amendments to authorize e-notice (revision of Probate Code mail service provisions to permit consensual e-service);	1	<p><i>Judicial Council Direction:</i> Goal III, Policy B1 Operational Plan, Goal III, Objective 5a</p> <p><i>Origin of Project:</i> Court Technology Advisory Committee</p> <p><i>Resources:</i> Court Technology Advisory Committee, Information Technology Advisory Committee</p> <p><i>Key Objective Supported: 5</i></p>	Ongoing. This project extends item no. 13 of the committee’s 2015 Annual Agenda from rules of court to service provisions of the Probate Code, following council adoption this year of rule 7.802, which will apply civil litigation rules concerning e-service to contested matters under the Probate Code.	The provisions of the Probate Code prescribing service by mail on interested parties in probate matters will be proposed for modification to permit e-service to consenting recipients in the 2017 Legislature. If successful, the changed provisions would be effective on January 1, 2018.

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
9.	Proposal to address possible conflict in court records retention statutes affecting retention of original Wills and codicils, a joint project with CEAC.	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy A2; Operational Plan, Goal III, Objective 2b.</p> <p><i>Origin of Project:</i> Court Executives Advisory Committee</p> <p><i>Resources:</i> Court Executives Advisory Committee JCC, Office of Governmental Affairs JCC, Legal Services Office, Legal Opinions Unit</p> <p><i>Key Objective Supported: 5</i></p>	The proposal is for legislation in the 2017 Legislature that would become effective on January 1, 2018.	Clarification of the law to specify which original Wills and codicils held by courts may be stored electronically and which must be stored in their original form.
10	Proposal for legislation to authorize automatic appointment of counsel for (proposed) conservatees in limited conservatorship cases	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal I, Policy 5; Operational Plan, Goal I, Objective 4b.</p> <p><i>Origin of Project:</i> Committee Chair</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	Effective date of legislation introduced in 2017 Legislature would be January 1, 2018.	Legislation requiring appointment of counsel for proposed conservatee in a limited conservatorship case whether or not counsel has been requested by petitioner for the appointment of a conservator.
11	Proposal for revision of the <i>Capacity Declaration—Conservatorship</i> (form GC-335)	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal IV, Policy 3; Operational Plan, Goal IV, Objective 1f.</p> <p><i>Origin of Project:</i> Committee Chair</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	This would be a multi-year project, with 2016 devoted to consultation with medical experts and analysis of whether legislation would be required.	Substantially modified Capacity Declaration for use in conservatorship cases.

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
12	Proposal for legislation and rules of court and forms for simplified guardianship accountings in which all funds are held in blocked account.	2, 2(b)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Judge of the Superior Court, County of San Bernardino</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	This would be a two-year project, with 2016 to be devoted to a preliminary review to determine if the proposal should be pursued in the 2017 committee year.	Streamlined and simplified procedure and forms for use in appropriate guardianship accountings.
13	Proposal for development of a form petition for the establishment of a special needs trust and/or a model trust or checklist for petitions to establish this kind of trust.	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Judge of the Superior Court of San Bernardino County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported:</i></p>	This would be a two-year project, with 2016 to be devoted to a preliminary review to determine if the proposal should be pursued in the 2017 committee year.	Forms for establishing special needs trusts under court supervision.
14	Proposal for legislation to dispense with filing fees for petitions to establish a guardianship of the person only, and for petitions filed by appointed guardians in these cases.	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B1; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Probate Attorney, Superior Court of San Joaquin County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	This proposal would be a 2016 item, which would become effective, if legislation is successful, on January 1, 2018.	Elimination of filing fees for guardians of the person and petitioners for their appointment would eliminate the complex new fee waiver process in these matters, with little loss of revenue,

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
					because virtually all guardianships of the person qualify for fee waivers under the 2014 law and the forms adopted effective in September of 2015.
15	Proposal for general review and possible modification of the forms used for guardianship appointments.	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B1; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Probate Attorney, Superior Court of San Joaquin County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	This project would be a two-year project, with the analysis to take place in 2016 and the revisions, if any are decided upon, to go forward in 2017, effective January 1, 2018.	Revised guardianship petitions.
16	Proposal to modify <i>Petition for Probate</i> (form DE-111) to state: whether the decedent was a citizen of a foreign country; whether the will offered for probate is lost; and whether the appointment is sought as a successor personal representative.	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Managing Probate Attorney, Superior Court of Riverside County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2</i></p>	The project would be considered, and if supported by the committee, completed, in 2016, with an effective date of January 1, 2017.	A revised <i>Petition for Probate</i> .

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
17	Proposal to study development of expedited trials and other court procedures for self-represented litigants in probate matters.	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal IV, Policy 3; Operational Plan, Goal IV, Objectives 1b and f.</p> <p><i>Origin of Project:</i> Comments on Survey of Self Represented Litigants Subcommittee</p> <p><i>Resources:</i> CFCC</p> <p><i>Key Objective Supported:</i></p>	Ongoing.	Uncertain at this time.
18	Proposal for creation of a form for court confirmation of a trustee's sale of real property.	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Los Angeles Attorney Danielle E. Miller</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 5</i></p>	This would be a current project, with an effective date of January 1, 2017.	A new form for use by trustees on sale of real property subject to court confirmation.
19	Proposal to revise <i>Petition to Determine Succession to Real Property</i> (form DE-310) to require a statement of the character of the property as community, separate, or quasi-community	2(a)	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Senior Staff Research Attorney, Superior Court of Solano County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 5</i></p>	Effective date of revised petition, January 1, 2017.	Revised form.

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
20	Proposal for legislation to amend Probate Code to permit funeral expenses of a decedent to be treated as administration expenses and thus payable without creditors' claims in his or her estate.	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Managing Probate Attorney, Superior Court of Riverside County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2, 5</i></p>	Effective date of legislation, January 1, 2018	Smoother estate administration that would permit estates to reimburse funeral expenses paid at or before commencement of administration by the decedent's family members.
21	Proposal to amend Probate Code section 10953 to permit awards to Public Administrators for services they render under Probate Code section 7600, et seq. because of estate personal representative's failure to account even if the Public Administrator is not appointed successor administrator.	2	<p><i>Judicial Council Direction:</i> Strategic Plan, Goal III, Policy B2; Operational Plan, Goal III, Objective 5a.</p> <p><i>Origin of Project:</i> Managing Probate Attorney, Superior Court of Riverside County</p> <p><i>Resources:</i></p> <p><i>Key Objective Supported: 2</i></p>	Effective date of legislation, January 1, 2018	Changed law would permit Public Administrators to be compensated for services rendered in this distressed estate circumstance without requiring them to petition for appointment as successor administrator.
22	Review and analyze pending legislation affecting practice and procedure in proceedings under the Probate Code and in mental health law to assist the Judicial Council in developing positions concerning the legislation.	1	<p><i>Judicial Council Direction:</i> CRC, rule 10.44(a)</p> <p><i>Origin of Project:</i> This project has been a core committee function since creation of the permanent committee in 2000.</p>	Ongoing	Development of recommendations to the Judicial Council's Policy Coordination and Liaison Committee for council positions on the legislation

#	Project ²	Priority ³	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<i>Resources:</i> Office of Governmental Affairs <i>Key Objective Supported:</i> 2 and 5.		
23	Review and analyze reported appellate court decisions in proceedings under the Probate Code and in civil mental health matters during the current year and make recommendations for legislative changes and changes in practice and procedure made necessary or advisable by these decisions.	1	<i>Judicial Council Direction:</i> CRC, rule 10.44(a) <i>Origin of Project:</i> This project has been a core committee function since the committee was made a permanent advisory committee in 2000. <i>Key Objective Supported:</i> 2 and 5.	Ongoing	Recommendations for legislation or changes in court rules and forms in response to appellate court decisions.

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1	Complete Third Edition of the Judicial Council's <i>Handbook for Conservators</i> .	A draft of the Third Edition has been completed, approved by the advisory committee, and sent to JCC's Editing and Graphics Unit for technical assistance and copyediting. The final draft is scheduled for presentation to the committee for approval in March, 2016, and to the Judicial Council for its approval in August, 2016, with posting of the publication on the Internet and distribution to the courts by October 1, 2016.
2	Review the management, scheduling, and disposition of probate proceedings in small courts and make recommendations for improvements to the Trial Court Presiding Judges and Court Executives Advisory Committees.	This project has been dropped for now. Initial inquiry of all small courts' probate staff or departments elicited no special concerns or problems and no requests for responses from the council on these matters. The committee has not had the time and resources in the last few years to complete a detailed review in the absence of any apparent need for changes.
3	Evaluate and report to the Trial Court Presiding Judges Advisory Committee and to the Judicial Council on the impact on small courts of rules 7.1101, 10.478, and 10.777, adopted effective January 1, 2008.	See response to item 2. No complaints have been received from small courts concerning the application of these rules, independently or in response to the initial inquiry mentioned above.
4	Proposal for adoption of a new rule of court and new or revised Judicial Council forms to implement recent statutory provisions and civil rules of court concerning court fee waivers in the unique circumstances of decedents' estates, conservatorships, and guardianships.	This project has been completed, with the adoption, effective September 1, 2015, of rule 7.5, governing fee waivers in decedent estates, guardianships, and conservatorships; and 11 new and two revised fee waiver forms for use in guardianship and conservatorship cases and in civil cases by these fiduciaries.
5	Develop and propose revision of one Judicial Council form and adoption of three new forms necessary to implement provisions of the California Conservatorship Jurisdiction Act (Chapter 8 of Part 3 of Division 4 of the Probate Code, commencing with section 1980), added by SB 940 (Stats. 2014, ch. 553), § 20.	This project has been completed, with the revision, effective January 1, 2016, of the <i>Petition for Appointment of Probate Conservator</i> (form GC-310), and the adoption of three new forms for registration of foreign conservatorships in this state, forms GC-360, GC-361, and GC-362, also effective on January 1, 2016.

6	Development of legislation and a new rule of court to clarify the use of statements of decision in probate proceedings.	A proposal concerning statements of decision in probate matters was developed by the committee and circulated for comment in the spring 2015 comment cycle. In response to strong opposition in comments received, the committee decided to abandon the project for now. The topic may be revived if there is a proposal by others to modify current legislation and the applicable rule of court in civil litigation and extend its application to probate and family law matters.
7	Implement, in probate guardianship proceedings, the directives contained in SB 873 (Stats. 2014, ch. 685) § 1, concerning immigrant minors in California.	Completed efforts in 2015 include council adoption, effective January 1, 2016, of a committee-sponsored rule 7.1020 of the California Rules of Court, concerning Special Immigrant Juvenile Status petitions in probate guardianship cases; adoption of a committee proposal for a form for that petition (form GC-220); adoption of an order making SIJS findings, designed for use in family law custody matters, juvenile court, and probate guardianship cases (form FL-357/ GC-224/JV-357); and revocation of existing form orders (JV-224 and GC-224), replaced by the joint form order.
8	Consider Mental Health Issues Implementation Task Force Referrals: Review and consider recommendations referred by the Judicial Council following the task force's final report to the council. Recommend appropriate action within the committee's purview (Recommendations 24–26)	This matter was postponed because the Task Force's life was extended into next year. Its final report is expected in the spring of 2016.
9	Review and consider recommendations for changes in law, practice, and procedures in limited conservatorships for the developmentally disabled.	This item has borne immediate fruit this year because of the passage of SB 589 (Stats. 2015, ch. 736). This legislation changed the standard for termination of a conservatee's voting rights. The old standard was expressed in four Judicial Council forms. The committee has revised these forms to eliminate the standard entirely in one of them and state the new standard in the other three. The committee will present the revised forms to the Judicial Council in December for a January 1, 2016 effective date, matching the effective date of the legislation, and will propose a public comment period to follow adoption.

10	Consider development of statewide optional or mandatory forms for use in civil mental health proceedings under the Lanterman-Petris-Short (LPS) Act, including mental health conservatorships.	No progress was made on this matter in 2015 because of the pressure of other business. It is unclear that statewide forms would be necessary or advisable in LPS proceedings, most of which are conducted by county mental health departments represented by county attorneys, with their own forms, and are defended by county public defenders or other experienced appointed counsel who have developed their own forms and procedures. This item is not proposed for renewal in 2016.
11	Review and analyze pending legislation affecting practice and procedure in proceedings under the Probate Code and in mental health law to assist the Judicial Council in developing positions concerning the legislation.	Work on this item is the prime responsibility of the committee's legislation Subcommittee, which met monthly throughout the 2015 legislative session and developed numerous recommendations concerning the legislation to the Judicial Council's Policy Coordination and Liaison Committee.
12	Review and analyze reported appellate court decisions in proceedings under the Probate Code and in civil mental health matters during the current year and make recommendations for legislative changes and changes in practice and procedure made necessary or advisable by these decisions.	New appellate decisions were not a significant factor affecting rules of court, forms, and established procedures in probate and mental health matters within the purview of this committee this year.
13	Modernize title 7 of the California Rules of Court to implement Judicial Council electronic-filing and electronic service program in superior court proceedings under the Probate Code.	A new rule of court, rule 7.802, concerning electronic service in contested probate matters, was drafted by the committee, and was adopted by the council effective January 1, 2016.
14	Court Records Sampling Project: Consider developing a proposal to repeal the court records sampling program under rule 10.855(f) to relieve courts from the burden of indefinitely retaining certain court records.	This committee did not work on this project this year.

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups: *[For each group listed in Section I, including any proposed “new” subgroups/working groups, provide the below information. For working groups that include members who are not on this advisory body, provide information about the additional members (e.g., from which other advisory bodies), and include the number of representatives from this advisory body as well as additional members on the working group.]*

Subgroup or working group name: Legislation Subcommittee

Purpose of subgroup or working group:

Review current legislation affecting the judicial branch and make recommendations to Judicial Council’s Policy Coordination and Liaison Committee for development of the Judicial Council positions on the legislation; provide technical assistance to make improvements in probate-related legislative proposals.

Number of advisory body members on the subgroup or working group: **5**

Number and description of additional members (not on this advisory body): **0**

Date formed:

At time of formation of permanent advisory committee (from the previous Probate and Mental Health Task Force) on July 1, 2000.

Number of meetings or how often the subgroup or working group meets:

Legislation Subcommittee meets monthly (by teleconference) when the California Legislature is in session.

Ongoing or date work is expected to be completed: Ongoing

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Probate Guardianships: A New Guardianship for Wards 18 to 21 Years Old and Extension of Existing Guardianships Beyond the Wards' 18th Birthday (Adopt form GC-210(ADLT), revise forms GC-240 and GC-250)

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Douglas C. Miller. (818)-558-4178; douglas.c.miller@jud.ca.gov

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

Approved by RUPRO: December 10, 2014 (2015 AA):

Project description from annual agenda: 2015 AA: Implement, in probate guardianship proceedings, the directives contained in SB 873 (Stats. 2014, ch. 685) § 1, which added Chapter 7 to Title 1 of Part 1 of the Code of Civil Procedure, commencing with section 155, concerning findings in state court proceedings involving qualified minors that would support their applications for favored immigration status as Special Immigrant Juveniles.

(2016 AA): Develop rules of court and Judicial Council forms as necessary to implement the provisions of AB 900 (Stats. 2015, ch. 694), which creates a new type of guardianship of the person for persons 18 to 21 years of age "in connection with a petition to make the necessary findings regarding special immigrant juvenile status pursuant to subdivision (b) of Section 155 of the Code of Civil Procedure."

If requesting July 1 or out of cycle, explain:

This project is made necessary by legislation effective January 1, 2016 that requires the Judicial Council to adopt necessary forms and rules of court by July 1, 2016.

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

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Probate Guardianships: A New Guardianship for Wards 18 to 21 Years Old and Extension of Existing Guardianships Beyond the Wards' 18th Birthday

Action Requested

Review and submit comments by January 22, 2016

Proposed Effective Date

July 1, 2016

Proposed Rules, Forms, Standards, or Statutes

Adopt form GC-210(ADLT), revise forms GC-240 and GC-250

Contact

Douglas C. Miller, (818) 558-4178,
douglas.c.miller@jud.ca.gov

Proposed by

Probate and Mental Health Advisory
Committee
Hon. John H. Sugiyama, Chair

Executive Summary and Origin

Existing guardianships are only for minors, persons less than 18 years old. But legislation effective January 1, 2016 has created a new type of guardianship for unmarried persons 18 to 21 years old. The new law also authorizes extension of existing guardianships beyond the wards' 18th birthday. The law specifies that these new and extended guardianships are in connection with the wards' petitions for factual findings in California courts in support of their applications for Special Immigrant Juvenile Status (SIJS) with the United States Citizenship and Immigration Services, part of the federal Department of Homeland Security. Special Immigration Juvenile Status entitles the successful applicant to apply for permanent residence in the United States—a “green card,” and eventually to apply for citizenship.

In response to a directive in the legislation requiring the Judicial Council to adopt any rules and forms needed to implement the new law by July 1, 2016, the Probate and Mental Health Advisory Committee recommends that the Judicial Council adopt a new form that would combine an application for the appointment of a guardian for a person 18 to 21 years old with an application for the extension of an existing guardianship beyond the ward's 18th birthday. The proposal also includes revisions of existing forms of the order appointing a guardian and Letters of Guardianship, to reflect the new and extended guardianships authorized by the law.

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

Background

In 2014, the Legislature passed and the Governor signed Senate Bill 873 (Stats. 2014, ch. 685), legislation that added section 155 to the Code of Civil Procedure concerning Special Immigrant Juvenile findings in California courts in support of applications for SIJS with the federal government. This legislation confirmed an earlier Court of Appeal decision that had concluded that the federal Immigration and Naturalization Act and the regulations under it authorize superior courts to make Special Immigration Juvenile findings in probate guardianship proceedings as well as in juvenile court dependency and delinquency proceedings. Section 155 also extended the authority to make these findings to superior courts in appropriate family law child custody matters.

In response to SB 873, the Probate and Mental Health Advisory Committee, working with the Family and Juvenile Law Advisory Committee, proposed the adoption of a form petition for SIJ findings in a guardianship (form GC-220), a probate rule of court concerning SIJ matters in guardianships (rule 7.1020), and a joint order for SIJ findings in guardianships, family law matters, and juvenile court matters (form FL-357/GC-224/JV-357).¹ The new rule and forms will be effective on January 1, 2016.

In 2015, also effective on January 1, 2016, the Legislature passed and the Governor signed Assembly Bill 900 (Stats. 2015, ch. 694).² Section 3 of AB 900 added section 1510.1 to the Probate Code, providing for (1) a guardianship for an unmarried person who is at least 18 years of age but not over the age of 21 years “in connection with a petition to make the necessary findings regarding special immigrant juvenile status pursuant to subdivision (b) of Section 155 of the Code of Civil Procedure”; and (2) the extension of an existing guardianship of the person for a ward past his or her 18th birthday, “for purposes of allowing the ward to complete the application process with the United States Citizenship and Immigration Services for classification as a special immigrant juvenile” Subdivision (e) of section 1510.1 requires the Judicial Council to adopt, by July 1, 2016, any rules and forms needed to implement the section.

The Proposal

In response to the mandate of AB 900, the Probate and Mental Health Advisory Committee will recommend that the Judicial Council adopt, effective July 1, 2016, a new form, the *Petition for Appointment of Guardian of the Person of An Adult 18 to 21 Years of Age or for Extension of Existing Guardianship of the Person Beyond Ward’s 18th Birthday* (form GC-210(ADLT)). The committee will also recommend revising the *Order Appointing Guardian of Minor* (form GC-240) and the *Letters of Guardianship* (form GC-250) to permit these forms to be used in connection with the new guardianships created by the legislation.

¹ See Judicial Council meeting of October 27, 2015, Agenda Item A20.

² A link to this legislation is provided at the end of this Invitation to Comment.

Form GC-210(ADLT)

The new form would combine in a single form the two petitions authorized by section 1510.1. The first two items, and the last item on page 3, would apply to both petitions. Their completion would be required in all cases. Items 3–10, ending at the bottom of page 2 of the form, would apply to the petition for appointment of a guardian of the person of an 18 to 21 year old who is not, or is no longer, a ward in a guardianship.

Items 11–16, on page 3, would be the petition for extension of an existing guardianship, designed to be used before the ward turns 18, when it appears that the ward’s application for SIJS may remain unresolved after the ward reaches that age. The extension petition is based on the assumption that the current guardian of the person would continue in that office after the ward’s 18th birthday, although a new order and Letters would be required. If a new guardian is proposed, he or she would be required to go through the regular appointment process. In that event, the new-appointment portion of the form (the first part of the form, items 3–10) should be used, after the ward turns 18, and an investigation and completion of the *Confidential Guardianship Screening Form* (form GC-212)) would be required. (See item 10 of the form on page 2.)

- Comments are requested concerning the proposed combination of these two petitions in a single form.

Items 5d and 5e, and 14 and 15, refer to the powers the appointed or extended guardian would have. Items 5e and 15 concern appointments in which no powers of a guardian of the person are requested. They advise that if that option is selected, the guardian would have no power to “abrogate any of the rights the proposed ward who has attained 18 years of age would have as an adult under state law, including making decisions concerning his or her residence, employment, travel, education, or medical treatment.” These provisions are consistent with the provisions of section 1510.1(c), which provides:

This section does not authorize the guardian to abrogate any of the rights that a person who has attained 18 years of age may have as an adult under state law, including, but not limited to, decisions regarding the ward’s medical treatment, education, or residence, without the ward’s express consent.

This provision is why the form recites in items 5d and 14 that, if any powers of a guardian of the person listed in Probate Code section 2351–2358 are sought, the (proposed) ward must sign the attachment containing the powers, in addition to signing the petition. That signature would evidence consent to the grant of powers to the guardian. If no powers are granted, any action the guardian proposes to take would require the express consent of the (proposed) ward.

The committee contemplated proposing a rule of court to assist parties and practitioners in understanding the new law and the uses of the new form. However, no rule was prepared in time to be included in this proposal. The public is invited to provide comments concerning the utility of such a rule and suggestions for its contents.

Revised Appointment Order and Letters of Guardianship

Even in an extended guardianship under Probate Code section 1510.1(b), a revised appointment order and Letters of Guardianship would be required because the powers the guardian would have in the extended guardianship would differ from those he or she had during the ward's minority. Accordingly, the existing forms for these documents, GC-240(order) and GC-250 (Letters) need to be revised.

GC-240

The existing form *Order Appointing Guardian of Minor* (form G-240) would be modified to accommodate not only the appointment of guardians for minors, but also the extension of an existing guardianship of the person of a ward past his or her 18th birthday (Prob. Code, § 1510.1(b)(1)) and the appointment of a guardian of the person of an adult 18 to 21 years of age (Prob. Code, § 1510.1(a)(1)). This change is reflected in the title of the form, changed to *Order Appointing Guardian of Minor or Adult 18 to 21 Years of Age, or Extending Guardianship of the Person of the Ward Past His or Her 18th Birthday*, and corresponding changes in the case name and title boxes at the top of the form on page 1.

Former references to the "minor" throughout this form would be changed to "the proposed ward" or, in the case of the extension of the guardianship, the "ward" (see items 3 and 4 on page 1). If the form refers to both a ward and a proposed ward in the same item, "(proposed) ward" would be used (see item 3 on page 1).

GC-250

Similar changes as those noted above would be made to the content of the title box on page 1 of the form *Letters of Guardianship* (form GC-250): checkboxes indicating an extended guardianship or the appointment of a guardian for an adult 18 to 21 years of age would be added.

A new item 2 would be added to the form to reflect the extension of an existing guardianship. The committee concluded that new Letters should be issued in these cases because the powers of the guardian of an adult are considerably different from those of a guardian of a minor. This item would also require disclosure of the ward's 18th birthday so persons relying on the Letters for proof of the extension would be alerted to its limited nature and expiration date, i.e., no later than three years after that date (on the ward's 21st birthday).

Item 1, as well as the title box, would also give notice that the guardianship is of a minor or an adult 18 to 21 years of age.

A new item 3d would be added on page 1. This item gives notice in a case in which the guardian has not requested powers of a guardian of the person in Probate Code sections 2351–2358 (see the discussion of this issue on page 3, concerning items 5d, 5e, 14, and 15 of the petition). As noted there, the guardian could not exercise those powers without the consent of the ward; the ward's power to exercise these powers independently, as can every other adult, would not be impaired by the guardianship appointment.

Alternatives Considered

As noted above, thought was given about providing a rule of court concerning the use of the new form and the requirements of section 1510.1. If a number of comments request a rule of court, the committee will re-evaluate its initial decision not to propose a rule. No alternatives to creation of a form were considered, in part because the statute appeared to at least suggest that a form would be appropriate.

Implementation Requirements, Costs, and Operational Impacts

This proposal will require considerable training of court staff, judges, and practitioners. Self-represented guardians may also find the forms difficult to use and understand. But the creation of a plain-language version would have resulted in a much longer form, would require instructions, and might not be necessary in most cases because a much higher percentage of guardians and wards with SIJS issues in their cases have experienced counsel, especially volunteer immigration counsel, assisting them than other parties in guardianships. Appointed counsel for wards might also be of considerable use in these cases.

On the other hand, the forms should actually help the courts address the anticipated increase of cases involving these issues because of the impact of the legislation. Whether or not the forms are adopted, an increase in cases involving the issues addressed in that legislation will almost certainly occur. The new and revised forms should materially aid in the disposition of those cases.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments and Links

1. Judicial Council form GC-210(ADLT), at pages 7–9;
2. Revised Judicial Council forms GC-240 and GC-250, at pages10–14;
3. Attachment A, AB 900 (Probate Code section 1510.1 is in section 3 of the legislation), at, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB900

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL 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 PERSON <input type="checkbox"/> AND ESTATE OF <input type="checkbox"/> (Name): <input type="checkbox"/> MINOR <input type="checkbox"/> MINORS <input type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	CASE NUMBER:
PETITION FOR: <input type="checkbox"/> APPOINTMENT OF GUARDIAN OF THE PERSON OF AN ADULT 18 TO 21 YEARS OF AGE <input type="checkbox"/> EXTENSION OF EXISTING GUARDIANSHIP OF THE PERSON BEYOND WARD'S 18TH BIRTHDAY	HEARING DATE AND TIME: DEPT.:

Petitioner (name): _____ alleges:

1. Petitioner is (check all that apply to a single petitioner or to more than one petitioner):
 - a. The ward or proposed ward named in item 2.
 - b. The guardian of the person or the person and estate of the ward named in item 2. The order appointing me was filed in this case on (date): _____ . Letters of Guardianship were issued on (date): _____ .
 - c. An adult relative (specify relationship): _____ or other person on behalf of the ward or proposed ward named in item 2.
 - d. The guardian ad litem for the ward named in item 2. A certified or conformed copy of the Order Appointing Guardian Ad Litem—Probate is attached to this petition as Attachment 1d.
2. (Name of Ward or Proposed Ward)*: _____ is (age): _____ years old. He or she was born on (date): _____ . He or she is a national of (country): _____ .
 He or she is unmarried and is currently present in the United States, the State of California, and the county named above.

Petition for Appointment of Guardian of the Person of an Adult 18 to 21 Years of Age

(If you are requesting the extension of an existing guardianship of the ward named in item 2, go to item 11 on page 3.)

3. The proposed ward, or petitioner on his or her behalf, desires to file a petition in this court for Special Immigrant Juvenile Findings concerning the proposed ward named in item 2. He or she is a juvenile within the meaning of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11(a), but is not now subject to a custody order of a California court or of any other state court because he or she is at least 18 years old.

Petitioner requests that:

4. a. (Name): _____
 (Address) _____
 and telephone): _____
 be appointed guardian of the person of the proposed ward named in item 2, pursuant to Probate Code section 1510.1(a)(1), and Letters issue upon qualification.
- b. bond not be required because the petition is for guardian of the person only.

*** (In an existing guardianship case involving more than one ward, prepare a separate petition for each ward for whom you are seeking an extension of the guardianship of the person past the ward's 18th birthday.)**

GUARDIANSHIP OF (Name): <input type="checkbox"/> MINOR <input type="checkbox"/> MINORS <input type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	CASE NUMBER:
--	--------------

5. Petitioner requests that (*continued*):
- c. the proposed guardian be authorized to file, or join with the proposed ward and/or others in filing, the petition in this court for Special Immigrant Juvenile Findings described in item 3 above, and to provide all reasonable assistance to the proposed ward in its prosecution and in connection with any application the proposed ward may make for Special Immigration Juvenile Status in any immigration proceeding with United States Citizenship and Immigration Services in which this court's Special Immigrant Juvenile Findings are considered.
- d. orders relating to the powers and duties of the proposed guardian of the person under Probate Code sections 2351-2358 be granted (*specify orders, facts, and reasons in Attachment 5d. If this box is checked and the proposed ward is not a petitioner, he or she must sign Attachment 5d in addition to this form.*)
- e. No orders be made at this time concerning the powers and duties of the proposed guardian of the person. Petitioner and the proposed guardian understand that if this box is checked and the proposed guardian is appointed, the guardian would have no authority to abrogate any of the rights the proposed ward who has attained 18 years of age would have as an adult under state law, including making decisions concerning his or her residence, employment, travel, education, or medical treatment.
6. The proposed guardian is (*check all that apply*):
- a. a nominee (*attach a copy of nomination as Attachment 6a or file Nomination of Guardian (form GC-211, items 2 and 3) with this petition.*)
- b. related to the proposed ward named in item 2, as shown in items 1b and 1c of this form and/or in item 3 of the proposed ward's attached form GC-210(CA).
- c. other, as shown in item 3 of the proposed ward's attached form GC-210(CA).
- d. a professional fiduciary within the meaning of the Professional Fiduciaries Act. The proposed guardian's license status is shown in item 1 on page 1 of the attached Professional Fiduciary Attachment. (*Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.*)
7. A person other than the proposed guardian has been nominated as the guardian of the proposed ward by will other writing. A copy of the nomination is attached as Attachment 7. (*Specify name and address of nominee in item 2 of proposed ward's attached form GC-210(CA).*)
8. Notice to the persons named in Attachment 8 should be dispensed with under Probate Code section 1511 because
- a. they cannot with reasonable diligence be given notice (*specify names and efforts to locate in Attachment 8*).
- b. giving notice to them would be contrary to the interest of justice (*specify names and reasons in Attachment 8*).
9. Attached is a copy of *Guardianship Petition—Child Information Attachment* (form GC-210(CA)) for the proposed ward. (*Complete Items 1a, 1b, 1d, 1f (modified to identify the last person who had legal custody of the proposed ward before he or she reached the age of 18 years), 1g, 1h, 2, 3, 4, 6, and 7 of form GC-210(CA), and also note item 9 on page 5 of that form.*)
10. Filed with this petition are the following (*check all that apply*):
- Consent of Proposed Guardian* (form GC-211, item 1)
- Nomination of Guardian* (form GC-211, items 2 and 3)
- Consent to Appointment of Guardian and Waiver of Notice* (form GC-211, item 4)
- Confidential Guardianship Screening Form* (form GC-212)
- Other (*specify*):

GUARDIANSHIP OF (Name): <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input type="checkbox"/> MINOR <input type="checkbox"/> MINORS <input type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE </div>	CASE NUMBER:
---	----------------------

Petition for Extension of Existing Guardianship of the Person Beyond Ward's 18th Birthday

11. The ward named in item 2, or petitioner or another person for the ward's benefit, has started, or intends to start, an application to the United States Citizenship and Immigration Services (USCIS) for Special Immigrant Juvenile Status. The application:

- a. Has not yet been filed with USCIS. b. Has been filed with USCIS and is pending.

12. A petition for Special Immigrant Juvenile Findings in connection with the application to USCIS mentioned in item 11:

- a. Is presented for filing with this petition. b. Has not yet been filed.

c. Was previously filed in this matter. That petition:

- (1) is pending. (2) was granted and findings were made, on (date):

13. Petitioner requests that the guardianship of the person of the ward named in item 2 be extended past the ward's 18th birthday, to end on the date of the ward's 21st birthday or on an earlier-dated order of this court terminating the guardianship on the petition of the ward, or of petitioner or the guardian with the consent of the ward. The guardian's signature on this petition, if he or she is not the petitioner, evidences his or her consent to continue to act as guardian of the ward's person, with the powers proposed in this petition.

14. Petitioner requests that orders relating to the powers and duties of the guardian of the person under Probate Code sections 2351-2358, effective from and after the date of the ward's 18th birthday, be granted (specify orders, facts, and reasons in Attachment 14. If this box is checked and the ward is not a petitioner, he or she must sign Attachment 14 in addition to this form).

15. No orders be made at this time concerning the powers and duties of the guardian of the person from and after the date of the ward's 18th birthday. Petitioner and the guardian understand that if this box is checked and the guardianship is extended past the ward's 18th birthday, the guardian would then have no authority to abrogate any of the rights the ward who has attained 18 years of age would have as an adult under state law, including making decisions concerning his or her residence, employment, travel, education, or medical treatment.

16. Petitioner requests that no new bond be required, or no existing bond be required to continue in effect, after the ward's 18th birthday because the petition for extension of guardianship is for extension of the guardianship of the ward's person only.

(All petitioners must complete the rest of this form.)

17. All attachments to this form are incorporated by this reference as though placed here in this form. There are _____ pages attached to this form.

Date:

(TYPE OR PRINT NAME OF ATTORNEY FOR PETITIONER)



(SIGNATURE OF ATTORNEY FOR PETITIONER)

(All petitioners must also sign (Prob. Code, § 1020; Cal. Rules of Court, rule 7.103).)

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)

I consent to my appointment, or the extension of my appointment, as guardian of the person of the (proposed) ward.

Date:

(TYPE OR PRINT NAME OF PROPOSED GUARDIAN IF NOT A PETITIONER)



(SIGNATURE OF PROPOSED GUARDIAN)

I consent to the appointment of the proposed guardian of my person or the extension of my existing guardianship of the person, with the powers requested in this petition.

Date:

(TYPE OR PRINT NAME OF (PROPOSED) WARD)



(SIGNATURE OF (PROPOSED) WARD)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
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): <input type="checkbox"/> MINOR <input type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	
ORDER APPOINTING GUARDIAN <input type="checkbox"/> MINOR <input type="checkbox"/> MINORS OR EXTENDING GUARDIANSHIP OF <input type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	CASE NUMBER:
WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.	

1. The petition for appointment of guardian or extension of guardianship of the person came on for hearing as follows (check boxes c, d, and e to indicate personal presence):

- a. Judge (name):
- b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
- c. Petitioner (name):
- d. Attorney for Petitioner (name):
- e. Attorney for (proposed) ward (name, address, and telephone):

THE COURT FINDS

- 2. a. All notices required by law have been given.
- b. Notice of hearing to the following persons has been should be dispensed with (names):
- 3. Appointment of a guardian of the person estate of the proposed ward is necessary and convenient.
- 4. Extension of the guardianship of the person of the ward past his or her 18th birthday is necessary and convenient.
- 5. Granting the guardian powers to be exercised independently under Probate Code section 2590 is to the advantage and benefit and is in the best interest of the guardianship estate.
- 6. Attorney (name): _____ has been appointed by the court as legal counsel to represent the (proposed) ward in these proceedings. The cost for representation is: \$ _____
- 7. The appointed court investigator, probation officer, or domestic relations investigator is (name, title, address, and telephone):

Do NOT use this form for a temporary guardianship.

GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <input type="checkbox"/> MINOR <input checked="" type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	CASE NUMBER:
--	--------------

THE COURT ORDERS

8. a. (Name): _____ (Telephone): _____
 (Address): _____

is appointed guardian of the PERSON of (name): _____
 and Letters shall issue upon qualification.

8. b. (Name): _____ (Telephone): _____
 (Address): _____

is appointed guardian of the ESTATE of (name): _____
 and Letters shall issue upon qualification.

9. Notice of hearing to the persons named in item 2b is dispensed with.

10. a. Bond is not required.

b. Bond is fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law.

c. Deposits of: \$ _____ are ordered to be placed in a blocked account at (specify institution and location): _____

and receipts shall be filed. No withdrawals shall be made without a court order.

Additional orders in Attachment 10c.

d. The guardian is not authorized to take possession of money or any other property without a specific court order.

11. For legal services rendered on behalf of the (proposed) ward parents of the (proposed) ward

(proposed) ward's estate shall pay to _____ (name): _____

the sum of: \$ _____

forthwith as follows _____ (specify terms, including any combination of payors): _____

12. The guardian of the estate is granted authorization under Probate Code section 2590 to exercise independently the powers specified in Attachment 12 subject to the conditions provided.

13. a. No powers under Probate Code sections 2351–2358 are granted to the guardian of the person of the ward 18 to 21 years old.

b. Orders are granted relating to the powers and duties of the guardian of the person under Probate Code sections 2351–2358 as specified in Attachment 13b.

GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF <i>(name):</i>	<input type="checkbox"/> MINOR <input checked="" type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE	CASE NUMBER:
--	--	--------------

14. Orders are granted relating to the conditions imposed under Probate Code section 2402 upon the guardian of the estate as specified in Attachment 14.

15. Other orders as specified in Attachment 15 are granted.

16. The probate referee appointed is *(name and address)*:

17. Number of boxes checked in items 8-16:

18. Number of pages attached:

Date:

JUDGE OF THE SUPERIOR COURT

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF (name):	WARD
LETTERS OF GUARDIANSHIP <input type="checkbox"/> Person <input type="checkbox"/> Estate <input checked="" type="checkbox"/> Extended <input type="checkbox"/> Adult 18 to 21 Years of Age	CASE NUMBER:

LETTERS

1. (Name): _____ is appointed guardian of the person estate of (name): _____, a minor. , an adult 18 to 21 years of age.

2. The appointment of (name): _____ as guardian of the person of (name): _____, is extended past the ward's 18th birthday on (date): _____

3. Other powers have been granted and conditions have been imposed as follows:

- a. Powers to be exercised independently under Probate Code section 2590 are specified in attachment 3a (specify powers, restrictions, conditions, and limitations).
- b. Conditions relating to the care and custody of the property under Probate Code section 2402 are specified in attachment 3b.
- c. Conditions relating to the care, treatment, education, and welfare of the ward under Probate Code section 2358 are specified in attachment 3c.
- d. The guardian of the person of the adult ward has not been granted powers under Probate Code sections 2351-2358.
- e. Other powers granted or conditions imposed are specified on attachment 3e. specified below.

4. The guardian is not authorized to take possession of money or any other property without a specific court order.

5. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.

(SEAL)

Date: _____

Clerk, by _____, Deputy

GUARDIANSHIP OF (name): <div style="display: inline-block; margin-left: 100px;"> <input type="checkbox"/> MINOR </div> <div style="display: inline-block; margin-left: 100px;"> <input checked="" type="checkbox"/> ADULT 18 TO 21 YEARS OF AGE </div>	CASE NUMBER:
---	--------------

NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS
(Probate Code sections 2890–2893)

When these *Letters of Guardianship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the guardian of the estate (1) to take possession or control of an asset of the minor named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the guardianship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The guardian should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution's or financial institution's responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch's public Web site free of charge. The Internet address (URL) is www.courts.ca.gov/forms/. Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter (nonfillable form) or may be filled out online and printed out ready for signature and filing (fillable form).

An *institution* under California Probate Code section 2890(c) is an insurance company, insurance broker, insurance agent, investment company, investment bank, securities broker-dealer, investment advisor, financial planner, financial advisor, or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the minor or conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, trust (including a Totten trust account but excluding other trust arrangements described in Probate Code section 82(b)), savings and loan association, savings bank, industrial bank, or credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe-deposit box held by the financial institution. A single form may be filed for all affected accounts or safe-deposit boxes held by the financial institution.

LETTERS OF GUARDIANSHIP
AFFIRMATION

I solemnly affirm that I will perform according to law the duties of guardian.

Executed on (date): _____, at (place): _____

_____ <small>(TYPE OR PRINT NAME)</small>	_____ <small>(SIGNATURE OF APPOINTEE)</small>
--	--

CERTIFICATION

I certify that this document, including any attachments, is a correct copy of the original on file in my office, and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

(SEAL)	Date: _____ Clerk, by _____, Deputy
--------	--

Traffic Advisory Committee
Annual Agenda—2016
Approved by RUPRO: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Gail Dekreon
Staff:	Mr. Courtney Tucker, Criminal Justice Services
Advisory Body's Charge: Under rule 10.54 of the California Rules of Court, the committee makes recommendations to the council for improving the administration of justice in the area of traffic procedure, practice, and case management and in other areas as set forth in the fish and game, boating, forestry, public utilities, parks and recreation, and business licensing bail schedules.	
Advisory Body's Membership: Thirteen members; 6 trial court judicial officers, 1 juvenile traffic hearing officer, 2 judicial administrators, 1 criminal defense lawyer, 1 representative from the California Highway Patrol, 1 representative from the Department of Motor Vehicles, and 1 representative from the California Office of Traffic Safety.	
Subgroups/Working Groups: None	
<p>Advisory Body's Key Objectives for 2016: Provide recommendations to the Judicial Council that:</p> <ol style="list-style-type: none"> 1. Improve court operations by implementing effective case management rules, forms, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of traffic cases; 2. Establish best practices branchwide for traffic proceedings, including processing of failures to appear, to ensure that interactions with the court are understandable, efficient, and perceived as fair; 3. Create tools to educate and assist bench officers, court staff, justice partners, and the public in traffic proceedings; 4. Enhance the integrity of court orders and improve public understanding of compliance requirements in traffic proceedings; 5. Improve assessment and collection of traffic fines, assessments, and forfeitures statewide through new and amended statutes and rules on procedures in traffic cases, training of bench officers and court staff, and public education and outreach; 6. Revise Judicial Council traffic forms to be consistent with rule 4.105; and 7. Promote access to justice in all infraction cases, including recommendations related to community service, post-conviction proceedings or proceedings after the defendant has previously failed to appear or pay, such as imposing civil assessments or placing holds on a driver's license. 	

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	2017 Bail Schedules Revision. Revise the annual Uniform Bail and Penalty Schedules.	1 – Must be done	<p>Judicial Council Direction: Strategic Plan Goal III. Modernization of Management and Administration; Operational Plan Objective: III.4. Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Origin of Project: Vehicle Code section 40310 requires the Judicial Council to adopt an annual schedule for nonparking traffic infractions.</p> <p>Resources: Governmental Affairs (GA) staff assists committee and Criminal Justice Services staff with tracking legislation affecting the bail schedules.</p> <p>Key Objectives Supported: 3, 4, and 5</p>	December, 2016. The committee will circulate an invitation to comment in October and will report to the council at December 2016 meeting.	Adoption of revised statewide Uniform Bail and Penalty Schedules to conform to legislation and use for updating courts' county bail schedules as required by Penal Code section 1269b.
2.	Develop Rules and Forms for Trials Under Vehicle Code Sections 40902 and 40903. Develop revised rules and forms	1(e)	Judicial Council Direction: Strategic Plan Goal: III. Modernization of Management and Administration; VI. Branchwide Infrastructure for Service Excellence.	July 2016	Amended rule 4.103; new forms, and revised forms TR-200, TR-205, TR-210, TR-215, TR-220, TR-225,

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or *a program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	to standardize and improve processing of trials by written declaration and trials in absentia for traffic infractions under Vehicle Code sections 40902 and 40903.		<p>Operational Plan Objective: III.5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases; Objective IV.1. Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: Proposed in response to requests from courts to reduce expense and clarify rules and procedures for trial by written declaration. As required by Vehicle Code section 40902, the council has adopted rules and forms for trials by written declaration requested by a defendant.</p> <p>Resources: Court Executives Advisory Committee and Trial Court Presiding Judges Advisory Committee to provide recommendations on best practices and development of forms and procedures.</p> <p>Key Objectives Supported: 1 and 4</p>		and TR-235.
3.	<p>Develop Legislation for Trials Under Vehicle Code Sections 40902 and 40903.</p> <p>Develop legislation to standardize and improve processing of trials by written declaration and trials in absentia</p>	2 – Should be done	<p>Judicial Council Direction: Strategic Plan Goal: III. Modernization of Management and Administration.</p> <p>Operational Plan Objective: III.5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the</p>	September 2016	Enactment of legislation.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	for traffic infractions under Vehicle Code sections 40902 and 40903.		<p>fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: This item is added in response to specific concerns expressed to the Judicial Council by courts and law enforcement agencies.</p> <p>Resources: Court Executives Advisory Committee and Information Technology Advisory Committee to provide recommendations on court practices and procedures.</p> <p>Key Objectives Supported: 1, 4, and 5.</p>		
4.	<p>Rules Modernization Project</p> <p>a. In collaboration with ITAC, identify and develop priorities for potential rule and statutory modifications so that the rules and statutes will be consistent with modern business practices. (For example, consider electronic notification to replace mail, paying fines online, etc.).</p> <p>b. Review rules and statutes in a systematic manner and develop recommendations for comprehensive changes. The review and recommendations are being made in phases. Phase 2, which consists of a more substantive review of the statutes and rules will commence in 2016.</p>	1(d)-(f) or 2(b) depending on rule or statute	<p>Judicial Council Direction: Strategic Plan Goal: Goal VI – Branchwide Infrastructure for Service Excellence;</p> <p>Operational Plan Objective: Part B, Objective 4, Desired Outcome (a) and (b)</p> <p>Origin of Project: (Approved on prior TAC and ITAC agenda.) The Judicial Council, based on recommendations from ITAC and other advisory committees, has responded on a case-by-case basis to the need for rule changes to reflect the shift from paper to electronic records and from mail to electronic service and notification; technology and cost considerations both inside and outside of the courts is heightening the need for changes in the law. ITAC is proposing a more systematic approach to address the needed changes. Its Rules & Policy Subcommittee conducted a study analyzing where outdated policy</p>	January 2017	Amendment of rules or statutes.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>challenges e-business in 2012 highlighting potential problem areas as a starting point to this effort. In 2015, ITAC collaborated with five other advisory committees, including TAC, to carry out phase 1 of the project, which consisted of minor technical changes to the rules.</p> <p>Resource: ITAC Rules and Projects Subcommittee.</p> <p>Key Objectives Supported: 1, 2, and 5.</p>		
5.	<p>Rules and Forms for Access to Justice in Infraction Cases. Consider development of rules and forms to promote access to justice in all infraction cases, including recommendations related to courtesy notices, payment plans, community service, post-conviction proceedings or procedures after a defendant has previously failed to appear or pay, such as imposing civil assessments or placing holds on a driver's license.</p>	1(e)	<p>Judicial Council Direction: Strategic Plan Goal: III. Modernization of Management and Administration.</p> <p>Operational Plan Objective: III.5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: This item is added in response to specific concerns expressed to the Judicial Council by courts and law enforcement agencies.</p> <p>Resources: Court Executives Advisory Committee and Information Technology Advisory Committee to provide recommendations on court practices and procedures.</p>	July 2016	Adoption of revised or new rules and forms.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objectives Supported: 1, 4, and 5.		
6.	<p>Legislation for Access to Justice in Infraction Cases. Consider development of legislation to promote access to justice in all infraction cases, including recommendations related to courtesy notices, setting trial dates, payment plans, community service, post-conviction proceedings, or procedures after a defendant has previously failed to appear or pay, such as imposing civil assessments or placing holds on a driver's license.</p>	2 – Should be done	<p>Judicial Council Direction: Strategic Plan Goal: III. Modernization of Management and Administration. Operational Plan Objective: III.5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases. Origin of Project: This item is added in response to specific concerns expressed to the Judicial Council by courts and law enforcement agencies.</p> <p>Resources: Court Executives Advisory Committee and Information Technology Advisory Committee to provide recommendations on court practices and procedures.</p> <p>Key Objectives Supported: 1, 4, and 5.</p>	September 2016	Enactment of legislation.
7.	<p>Community Outreach. Provide advice to Judicial Council staff for implementation and maintenance of community outreach materials developed for use by bench officers.</p>	2 – Should be done	<p>Judicial Council Direction: Strategic Plan Goal: I. Access, Fairness, and Diversity; IV. Quality of Justice and Service to the Public. Operational Plan Objective: I.2. Identify and eliminate barriers to all levels of service; ensure that interactions with the court are understandable, convenient, and perceived as</p>	Ongoing/ Website and outreach materials to be revised for 2015 as needed to	Revision of traffic outreach materials and posting on the Judicial Resources Network.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>fair; Objective IV.1. Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Origin of Project: Outreach materials were developed by the committee in 2001 in response to a directive by the Judicial Council and regularly updated to enhance community outreach and improve public trust and confidence in the courts.</p> <p>Resource: CJER to provide consultation regarding improvement of outreach educational materials.</p> <p>Key Objectives Supported: 3 and 4.</p>	follow new laws.	
8.	<p>Traffic Bench Officer and Temporary Judge Training. Provide advice as requested by the Center for Judiciary Education and Research with development of traffic training programs and materials for bench officers and temporary judges assigned to traffic proceedings, including instruction on options for appearance in court after a failure to appear and referral to collections.</p>	2 – Should be done	<p>Judicial Council Direction: Strategic Plan Goal: V. Education for Branchwide Professional Excellence.</p> <p>Operational Plan Objective: V.1. Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Project: Recommended by committee to support the Center for Judiciary Education and Research (CJER) and research in preparation and presentation of statewide training programs for traffic bench officers.</p>	Ongoing	Provide assistance for CJER training programs for traffic bench officers.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Resource: CJER Governing Committee to provide advice and recommendations to CJER as requested for traffic training programs and materials.</p> <p>Key Objectives Supported: 3 and 5.</p>		

III. STATUS OF 2015 PROJECTS:

#	Project	Completion Date/Status
1.	Bail Schedule Revision.	Ongoing/ revised Uniform Bail and Penalty Schedules will be on the December agenda for adoption by council effective January 1, 2016, in accordance with Vehicle Code section 40310.
2.	Revise Notice to Appear Citation Forms.	Completed June 2015.
3.	Develop Revised Instructions Manual for Notice to Appear Citation Forms.	Completed June 2015.
4.	Develop Legislation for Trials by Written Declaration Under Vehicle Code Sections 40902.	Legislation proposed in 2014 to charge administrative fee for processing trials by written declaration did not receive support in the Legislature. Item expanded to include trials in absentia as part of ongoing effort to improve access to justice for infraction cases.
5.	Develop Rules and Forms for Trials by Written Declaration Under Vehicle Code Sections 40902.	Ongoing/See Items 2 on agenda for adoption, effective January I, 2017. Rule and forms drafted for trials under section 40902 to submit to RUPRO to approve for circulation for public comment in 2016. Proposal related to section 40903 for trials by written declaration in absentia removed from 2015 annual agenda and added to agenda for 2016.
6.	Electronic Citation Project.	Completed June 2015.
7.	Develop Rule for Review and Approval of Electronic Notice to Appear Traffic Citation Forms.	Completed June 2015 to require only submission of forms when revised without a process that requires approval.
8.	Develop Revised Rules and Forms for Citations from Automated Traffic Enforcement Systems.	Completed June 2015.
9.	Community Outreach.	December 2015/See Item 7 on agenda. Revised community outreach materials for traffic violations posted on Serranus for use by bench officers in presentations to community groups.
10	Traffic Bench Officer and Temporary Judge Training.	Ongoing. See Item 8 on agenda.

VI. Subgroups/Working Groups - Detail

Subgroups/Working Groups: *[For each group listed in Section I, including any proposed “new” subgroups/working groups, provide the below information. For working groups that include members who are not on this advisory body, provide information about the additional members (e.g., from which other advisory bodies), and include the number of representatives from this advisory body as well as additional members on the working group.]*

Subgroup or working group name: None

Purpose of subgroup or working group: N/A

Number of advisory body members on the subgroup or working group: N/A

Number and description of additional members (not on this advisory body): N/A

Date formed: N/A.

Number of meetings or how often the subgroup or working group meets: N/A

Ongoing or date work is expected to be completed: N/A

Criminal Law Advisory Committee

Annual Agenda—2016

Approved by RUPRO: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Tricia A. Bigelow
Staff:	Arturo Castro, Supervising Attorney, Criminal Justice Services
Advisory Body's Charge: The Criminal Law Advisory Committee makes recommendations to the Judicial Council for improving the administration of justice in criminal proceedings. (Cal. Rules of Court, rule 10.42(a).)	
Advisory Body's Membership: The committee has 18 members, 1 appellate court justice, 7 judges, 3 court administrators, 3 prosecutors, 3 defense attorneys, and 1 probation officer.	
Subgroups/Working Groups: <i>Subcommittees (including only CLAC members):</i> Limited Duration/Ad Hoc Subcommittee on Use of Risk Needs Assessment Information at Sentencing <i>Working Groups (including members in addition to CLAC):</i> Working Group on Modernization of Rules to Support E-Business	
Advisory Body's Key Objectives for 2016: <ol style="list-style-type: none">1. Provide recommendations to the Judicial Council to promote the administration of the criminal justice system, including concerning bail, the imposition of fines and fees, and the court's role in addressing mental health issues in the criminal context, implementing criminal justice realignment, and incorporating evolving evidence-based practices as appropriate.2. Recommend Judicial Council approval of various rule and form proposals to promote timely, consistent, and effective criminal case processing.3. Assist Governmental Affairs staff in developing Judicial Council-sponsored legislation involving criminal court administration, and responding to proposed legislative developments.	

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	Supervision Procedures: Develop rule and form recommendations to facilitate court implementation of supervision revocation procedures in response to criminal justice realignment.	1(b)	Judicial Council Direction: <i>Strategic Plan Goal 3: Modernization of Management and Administration.</i> <i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases. Origin of Project: Required, in part, by Penal Code sections 3455 and 3000.08. Resources: Not applicable. Key Objective Supported: 1, 2.	January 1, 2017	Recommendations for rules and forms.
2.	Collection and Disbursement of Fines and Fees After Intercounty Probation Case Transfers: Develop recommendations to clarify the	1 or 1(e)	Judicial Council Direction: <i>Strategic Plan Goal 3: Modernization of Management and Administration.</i>	July 1, 2017	Recommendations for rules, standards of judicial administration, and/or legislation.

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	requirements for the collection and disbursement of fines, fees, and assessments after intercounty transfers under Penal Code section 1203.9; develop related rule and form proposals as needed.		<p><i>Operational Plan Objective 4:</i> Uphold the integrity of court orders, protect court user safety, improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Origin of Project: Requested by numerous judges, court executive officers, judicial administrators, and probation representatives; most recently by the Court Executives Advisory Committee.</p> <p>Resources: May include the formation of a working group that will include some nonmembers, including judicial administrators.</p> <p>Key Objective Supported: 1, 2, and 3.</p>		
3.	Criminal Justice Realignment: Consider rule, form, and legislative proposals to facilitate court implementation of criminal justice realignment.	1(a)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p>	July 1, 2016 (out of cycle rule proposals); January 1, 2018 (legislative proposals)	Recommendations for rules, standards of judicial administration, and/or legislation.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Origin of Project: Required by criminal justice realignment.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: Objectives 1, 2, and 3.</p>		
4.	<p>Proposition 47: Develop proposals to facilitate court implementation of Proposition 47, The Safe Neighborhoods and Schools Act.</p>	1(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Department of Justice representatives.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 1.</p>	November 2017	To be determined
5.	<p>Evidence-Based Practices: Develop recommendations for Judicial Council approval in response to Senate Bill 678, which requires the council to “consider adoption of</p>	1(a)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p>	January 1, 2017 (and ongoing)	Recommendations for rules, standards of judicial administration, and/or legislation.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	appropriate modifications to the Criminal Rules of Court, and other judicial branch policies, procedures, and programs, affecting felony probation services that would support the implementation” of evidence-based felony probation practices.		<p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Required by Senate Bill 678 (Leno; Stats. 2009, ch. 608).</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 1 and 2.</p>		
6.	<p>Criminal Law Legislation: Review and recommend Judicial Council positions on pending criminal law legislation and assist Governmental Affairs staff in pursuing Judicial Council-sponsored legislation developed by the committee in 2015, including a proposal to enhance jurisdiction over supervision revocations.</p>	1	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Legislative proposals were originally developed at the request of judges and/or court administrators.</p>	January 1, 2018	Legislation.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Resources: Governmental Affairs. Key Objectives Supported: 3.		
7.	Risk/Needs Assessment Information: Develop rules and/or standards of judicial administration to govern court use of information from risk/needs assessments, and/or legislative recommendations to the Judicial Council.	1(b)	Judicial Council Direction: <i>Strategic Plan Goal 3:</i> Modernization of Management and Administration. <i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases. Origin of Project: Criminal court judges seeking guidance on new area of law. Resources: Not applicable. Key Objectives Supported: 1 and 2.	January 1, 2017	Recommendations for rules, standards of judicial administration, and/or legislation.
8.	Rule 4.411.5: Military Status: Develop a rule proposal to amend rule 4.411.5 to require probation presentence reports to include certain military history information about the defendant.	1(e)	Judicial Council Direction: <i>Strategic Plan Goal 3:</i> Modernization of Management and Administration. <i>Operational Plan Objective 4:</i> Uphold the integrity of court orders, protect court user safety, improve	January 1, 2017	Recommendations for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>public understanding of compliance requirements.</p> <p>Origin of Project: Arose during committee discussions of a new Judicial Council form for use by defendants to notify courts of military status.</p> <p>Resources: Collaborative Justice Courts Advisory Committee.</p> <p>Key Objective Supported: Objective 2.</p>		
9.	<p>Victim Restitution Rights Form: Update the Judicial Council “Crime Victims’ Compensation” form required by Penal Code section 1191.2; the current form has not been updated since adoption in 1997.</p>	2(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: The form is required by Penal Code section 1191.2.</p> <p>Resources: Not applicable.</p>	July 1, 2016 (approved on prior Annual Agenda)	To be determined.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 1.		
10	<p>Modernize Trial Court Rules to Support E-Business: In conjunction with the Court Technology Advisory Committee, develop rule and legislative proposals to promote e-business in criminal court proceedings.</p>	1(d)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Court Technology Advisory Committee.</p> <p>Resources: Court Technology Advisory Committee.</p> <p>Key Objective Supported: 2.</p>	January 1, 2017 (rules) January 1, 2018 (legislation)	Recommendations for rules and/or legislation.
11	<p>Omnibus Rule Proposal: Develop an omnibus rule proposal to update all criminal rules of court to reflect changes to felony sentencing laws and parole procedures after criminal justice realignment.</p>	1(a)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices</p>	July 1, 2016 (approved on prior Annual Agenda)	Recommendation for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Required in response to criminal justice realignment.</p> <p>Resources: Not applicable.</p> <p>Key Objectives Supported: 2.</p>		
12	<p>Abstract of Judgment Forms: Develop form revisions to update the mandatory Judicial Council abstract of judgment forms.</p>	1(e)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3: Modernization of Management and Administration.</i></p> <p><i>Operational Plan Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</i></p> <p>Origin of Project: Requested by numerous judicial administrators.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 2.</p>	January 1, 2017	Recommendation for forms.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
13	<p>DNA Expungement Instruction Form: Develop form revisions to update and enhance the Judicial Council DNA expungement forms (CR-185/JV-796 and CR-185/JV-798) in light of recent changes in the law regarding DNA samples obtained from defendants.</p>	2(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Department of Justice representatives.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 2.</p>	January 1, 2017	Recommendation for forms.
14	<p>Incompetence to Stand Trial: Develop rule proposals in response to legislative developments that modified procedures related to incompetence to stand trial, including new procedures for proceedings during revocation of supervision.</p>	1(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p>	January 1, 2017 (rules) January 1, 2018 (legislation)	Recommendation for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Origin of Project: Department of Justice representatives.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 1 and 2.</p>		
15	<p>Intercounty Transfer Procedures: Consider rule, form, and legislative proposals to facilitate court implementation of intercounty transfer procedures under Penal Code section 1203.9.</p>	1(e)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Suggested by numerous criminal judges.</p> <p>Resources: Not applicable.</p> <p>Key Objectives Supported: 2 and 3.</p>	January 1, 2017 (rules) January 1, 2018 (legislation)	Recommendations for rules, standards of judicial administration, and/or legislation.
16	<p>Mental Health Issues: Collaborate with other advisory committees to consider and implement recommendations originally developed by the Mental Health Implementation</p>	2(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p>	Ongoing.	To be determined.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	Task Force to improve the resolution of mental health issues during criminal proceedings.		<p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Suggested by numerous criminal judges.</p> <p>Resources: Not applicable.</p> <p>Key Objectives Supported: 1.</p>		
17	<p>Magistrates and Subordinate Judicial Officers: Develop legislation jointly with Trial Court Presiding Judges Advisory Committee to add “commissioners” to the definition of “magistrate” to expand pool of judicial officers who can be assigned to magistrate duties and provide flexibility in balancing judicial workload, and increase access to justice.</p>	2	<p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Requested by Trial Court Presiding Judges Advisory Committee (March 19, 2015).</p> <p>Resources: Trial Court Liaison office (TCLO), Criminal Justice Services Office, Governmental Affairs, Legal</p>	January 1, 2018	Recommendation for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Services, and the Trial Court Presiding Judges Advisory Committee.</p> <p>Key Objective Supported: Objectives 3.</p>		
18	<p>Criteria affecting the imposition of mandatory supervision: Consider potential amendments to Rule 4.415. to reflect exception to presumption in favor of mandatory supervision articulated in <i>People v. Borynack</i> (2015) 238 Cal.App.4th 958, review denied (Oct. 21, 2015) (Defendant convicted of a crime under the Destructive Devices and Explosives Chapter of the Penal Code may be sentenced to local custody confinement if otherwise eligible under the Criminal Justice Realignment Act, but Penal Code Sec. 18780, which prohibits suspending execution of sentence when a defendant is convicted of any such crime, would still apply.)</p>	1(b)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3: Modernization of Management and Administration.</i></p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Department of Justice representatives.</p> <p>Resources: Case law development.</p> <p>Key Objective Supported: 2.</p>	January 1, 2017	Recommendation for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
19	<p>Multi-County Concurrent/Consecutive Sentences: Develop legislative and/or rule proposals providing regarding the court’s decision to determine the county or counties or jurisdictional territory of incarceration and supervision when the court is imposing a sentence judgment pursuant to subdivision (h) of Section 1170 concurrent or consecutive to a sentence judgment or judgments previously imposed pursuant to subdivision (h) of Section 1170 in another county or counties. Jurisdictional territory.</p>	1(e)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project:</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 2 and 3.</p>	January 1, 2017 (rules) January 1, 2018 (legislation)	Recommendations for rules and/or legislation.
20	<p>Criminal Sentencing: Develop rule proposal as directed by A.B. 1156 (2015-16) providing criteria for the consideration of the trial judge at the time of sentencing regarding the court’s decision to impose the lower, middle, or upper term pursuant to paragraph (1) or (2) of subdivision (h) of Section 1170.</p>	1(a)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p>	July 1, 2016 (Fits within Omnibus Rule Amendment proposal that was approved for prior Annual Agenda)	Recommendation for rules.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Origin of Project: Legislation (A.B. 1156 (2015-16).)</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 2.</p>		
21	<p>Waiver of Appellate Rights and Pleas: Review policy regarding waiver of appellate rights and the possible revision to form CR-101, Plea Form, With Explanations and Waiver of Rights – Felony (Criminal).</p>		<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Committee liaison.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 2.</p>	January 1, 2017	Recommendation for forms.
22	<p>Bail in Non-Traffic Infraction Cases: Consider recommendations, consistent with rule 4.105, to provide for appearances at arraignment and trial without the deposit of bail in non-traffic infraction cases;</p>	1(c)	<p>Judicial Council Direction:</p> <p><i>Strategic Plan Goal 3:</i> Modernization of Management and Administration.</p> <p><i>Operational Plan Objective 5:</i> Develop and implement effective trial</p>	July 1, 2016, and ongoing (approved on prior Annual Agenda)	Recommendations for rules, forms, standards of judicial administration, and/or legislation.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	Consider rule, form, or other recommendations necessary to promote access to justice in all infraction cases, including recommendations related to post-conviction proceedings or after the defendant has previously failed to appear or pay.		<p>and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Committee liaison.</p> <p>Resources: Not applicable.</p> <p>Key Objective Supported: 1 and 2.</p>		

III. STATUS OF 2015 PROJECTS:

#	Project	Completion Date/Status
1	Procedures to Revoke Parole and Postrelease Community Supervision	Effective January 1, 2015, the Judicial Council approved revisions to form CR-300, <i>Petition for Revocation</i> , to apply the form to probation and mandatory supervision cases. This project is ongoing.
2	Collection and Disbursement of Fines and Fees After Intercounty Case Transfers	This project is ongoing.
3	Criminal Justice Realignment	This project is ongoing.
5	Subpoena Duces Tecum Procedure	The committee considered the issue and determined no proposal was required.
6	Petition and Order for Dismissal	Judicial Council approved form revisions effective January 1, 2015. This project is ongoing.
7	Appeals from Imposition of Fines and Fees	Judicial Council-sponsored legislation to limit the appeals of the erroneous imposition or calculation of fines and fees at sentencing becomes effective January 1, 2016.
8	Evidence-Based Practices/Risk Needs Assessments in Sentencing	This project is ongoing.
9	Criminal Law Legislation	The committee provided subject matter expertise on numerous pending criminal law bills in 2015. This project is ongoing.
10	Criminal Protective Orders	This project is ongoing.
11	Rule 4.411.5: Military Status	This project is ongoing.
12	Victim Restitution Rights Form	This project is ongoing.
13	Rule Modifications Needed to Promote E-Business	This project is ongoing.

14	Court Records Sampling Program	This CEAC project is ongoing. The Criminal Law Advisory Committee will be called upon if needed.
15	Monetary Sanctions Under the Code of Civil Procedure	In December 2014, the Judicial Council approved sponsorship of legislation to authorize courts to impose fines against jurors who violate court orders. The legislation was not enacted during the 2015 legislative session.
16	Sentencing Report Deadline Under Penal Code section 1203	In December 2014, the Judicial Council approved sponsorship of legislation to require a showing of good cause before continuances are granted for failure to meet the report deadline. The legislative process is still ongoing.
17	Intercounty Transfer Procedures	This project is ongoing.
18	Omnibus Rule Proposal	This project is ongoing.
19	Abstract of Judgment Forms	This project is ongoing.
20	Capital Case Procedures	This project has been removed from the annual agenda.
21	DNA Expungement Instruction Form	This project is ongoing.

IV. Subgroups/Working Groups – Detail

Subgroups/Working Groups:

Working Group on Modernization of Rules to Support E-Business (*new*)

Purpose of subgroup or working group: The Court Technology Advisory Committee formed a working group to review potential rule and statutory modifications proposed by the CTAC Rules & Policy Subcommittee’s study of the paper-to-electronic transition in the courts, analyzing where outdated policies challenge or prevent business in the courts from being done electronically. Members of CLAC (number to be determined) will work with CTAC members in reviewing that group’s proposals for changes in title 4 of the California Rules of Court. CLAC will consider the changes further when the proposals are sent out for public comment at CTAC’s request.

Number of advisory body members on the subgroup or working group: TBD

Number and description of additional members (not on this advisory body): This group is led by CTAC, which is working separately with several advisory committees on the project. CLAC staff is not aware of exactly which other advisory committees or how many of their members are involved in the effort.

Date formed: 2014

Ongoing or date work is expected to be completed: Unknown

Ad Hoc/Limited Duration Subcommittee: Use of Risk/Needs Assessments at Sentencing

Purpose of subgroup or working group: The Criminal Law Advisory Committee is working to develop a proposed Standard of Judicial Administration to provide California courts guidance on using risk/needs assessments in criminal proceedings, including sentencing.

Number of advisory body members on the subgroup or working group: Seven members of CLAC work on this subcommittee. The subcommittee has consulted with subject matter experts.

Ongoing or date work is expected to be completed: Unknown.

Advisory Body Name
Annual Agenda—2016
Approved by E&P/RUPRO: _____

I. ADVISORY BODY INFORMATION

Chair:	Justice Raymond J. Ikola
Staff:	Heather Anderson, Supervising Attorney, Legal Services
<p>Advisory Body's Charge:</p> <ul style="list-style-type: none">• Identify issues and concerns affecting appellate court administration and make recommendations to the Judicial Council for improving the administration of justice in appellate proceedings;• Propose necessary changes to appellate rules, standards, and forms in response to legislative and case law changes as well as to proposals from committee members and others;• Review pending legislation affecting appellate court administration and make recommendations to the Policy Coordination and Liaison Committee on whether to support or oppose it;• Recommend to the council new legislation relating to appellate court administration;• Recommend to the council pilot projects and other programs to evaluate new appellate court procedures or practices;• Make proposals on training for justices and appellate support staff to the Governing Committee of the Center for Judicial Education and Research; and• Act on assignments referred by the council or an internal committee. <p>(California Rules of Court, rules 10.34 and 10.40).</p>	
<p>Advisory Body's Membership: The committee currently has a total of 18 members in the following categories:</p> <ul style="list-style-type: none">• Supreme Court justice – 1;• Court of Appeal justice - 7;• Trial court judicial officer with experience in the appellate division - 1;• Supreme Court clerk administrator - 1;• Appellate court administrator - 1;• Trial court judicial administrator - 1;• Civil appellate lawyer - 3;• Criminal defense appellate lawyer - 2;• State Public Defender - 1;• Appellate lawyer of the Attorney General's Office – 1; and• Appellate lawyer of the Court of Appeal or Supreme Court - 1. <p>(California Rules of Court, rule 10.40)</p>	

Subgroups/Working Groups:

Subcommittees including only AAC members

- Rules Subcommittee
- Legislative Subcommittee
- Subcommittee to consider concerns regarding privacy protection in appellate opinions (new – the committee is requesting permission to form this subcommittee)

Subcommittees including members in addition to AAC members

- Appellate Division Subcommittee (approved in 2014, but not yet formed)
- Joint AAC/CTAC Appellate Technology Subcommittee

Advisory Body's Key Objectives for 2016:

1. Increasing efficiencies in appellate proceedings and providing opportunities for saving court costs by, among other things:
 - Considering whether to recommend rule amendments that would clarify the requirement to include certain items in the record on appeal in juvenile cases, thereby eliminating the need for appointed counsel to make and the court to consider augmentation requests; and
 - Considering rule and form changes to remove requirements for paper versions of documents and to otherwise facilitate electronic filing.
2. Improving the administration of justice in appellate proceedings by, among other things:
 - Considering whether to recommend rule amendments to address party and clerk responsibilities when parties purchase reporter's transcript directly from reporter pro tempore; and
 - Considering ways to better protect the privacy of victims, witnesses, and others who are described in or otherwise affected by appellate opinions

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Improve Rules and Forms: This is a continuing project; it was listed as item 1 on the committee’s annual agendas for 2012 – 2015. Working through the Rules Subcommittee, review legislative and case law changes and suggestions from committee members, justices, judges, court staff, the bar, and the public concerning appellate rules and forms and appellate court administration and make recommendations to the council for necessary changes to appellate rules, standards, and forms.</p>	1 ³	<p>Judicial Council Direction: Strategic Plan Goal 3 – Modernization of Management & Administration, Operational Plan Objective 5. Develop and implement effective trial and appellate case management rules, procedures, techniques and practices to promote the fair, timely, consistent, and efficient processing of all types of cases⁴</p> <p>Origin of Project: Required by committee charge in California Rules of Court, rule 10.40.</p> <p>Resources: N/A</p> <p>Key Objective Supported: 1 and 2</p>	Ongoing	Improved rules and forms

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

³ This is the general charge of the committee in the rules and forms area and so does not fall within any of the categories for specific rules and forms projects.

⁴ Much of the work by the Appellate Advisory Committee falls within this pair of Strategic/Operational Plan Goals. This pair of goals is referred to through the rest of this agenda as “Strategic Plan Goal 3, Operational Plan Objective 5.”

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
2.	<p>Review Pending Legislation: This is a continuing project; it was listed as item 2 on the committee's annual agendas for 2012 – 2015. Working through the Legislative Subcommittee, review pending legislation affecting appellate court administration and make recommendations to the Policy Coordination and Liaison Committee as to whether the council should support or oppose the legislation.</p>	1	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Required by committee charge in California Rules of Court, rule 10.40.</p> <p>Resources: Governmental Affairs staff identifies pending legislation affecting appellate court administration for the committee's review</p> <p>Key Objective Supported: 1 and 2</p>	Ongoing	Recommendations to the Policy Coordination and Liaison Committee (PCLC) regarding legislation affecting appellate court administration
3.	<p>Reporter's transcripts: Consider whether to recommend/support amendments to statute requiring that the original reporter's transcript be in paper format</p>	1	<p>Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from Court of Appeal Justice</p> <p>Resources: Governmental Affairs staff assistance in working with appropriate constituencies on proposal and in presenting recommendations to PCLC.</p> <p>Key Objective Supported: 1</p>	January 1, 2018	Revised statute

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
4.	<p>Reporter's transcripts: Consider whether to recommend rule amendments to address party and clerk responsibilities when parties purchase reporter's transcript directly from reporter pro tempore</p>	1(e)	<p>Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from Court of Appeal Clerk.</p> <p>Resources: Court Executives Advisory Committee</p> <p>Key Objective Supported: 2</p>	January 1, 2017	Amended rules
5.	<p>Record on appeal in juvenile cases - Consider whether to recommend amendments to the rules regarding the record on appeal in juvenile cases to clarify requirements for inclusion of items relating to Indian Child Welfare Act compliance.</p>	1 (d) and (e)	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from Court of Appeal Clerk.</p> <p>Resources: N/A</p> <p>Key Objective Supported: 1</p>	January 1, 2017	Amended rules
6.	<p>Privacy protection – Consider whether to recommend amendments to the Rules of Court or other actions to better protect the privacy of victims, witnesses, and others who are described in or otherwise affected by appellate opinions.</p>	1 (e)	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from members of Family and Juvenile Law Advisory Committee and Access and Fairness Advisory Committee.</p> <p>Resources:</p> <ul style="list-style-type: none"> • AAC subcommittee to consider 	January 1, 2017	Amended rules, education recommendations

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>concerns regarding privacy protection in appellate opinions</p> <ul style="list-style-type: none"> Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Criminal Law Advisory Committee, Civil and Small Claims Advisory, Committee, Joint Appellate Technology Subcommittee Information Technology Advisory Committee. <p>Key Objective Supported: 2</p>		
7.	<p>Application of rules on juvenile appeals - Consider whether to recommend amendment to the rules on juvenile appeals to clarify that they apply to appeals under Probate Code 1516.5</p>	1(a) and (e)	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Attorney at California Appellate Project</p> <p>Resources: Family and Juvenile Law Advisory Committee</p> <p>Key Objective Supported: 1</p>	January 1, 2017	Amended rule
8.	<p>E-Filing rules - Review the rules on electronic filing in the appellate courts and compare with local practices to determine if there are inconsistencies that need to be addressed or where uniform practice might be beneficial</p>	1(e)	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Joint Appellate Technology Subcommittee</p> <p>Resources: JATS, Information</p>	January 1, 2017	Amended rules

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Technology Advisory Committee (ITAC) Key Objective Supported: 1		
9.	Modernize Appellate Court Rules for E-Filing and E-Business a. Review appellate rules to ensure consistency with e-filing practice; evaluate, identify and prioritize potential rule modifications where outdated policy challenges or prevents e-business. b. Consider rule modifications to remove requirements for paper versions of documents (by amending individual rules or by introducing a broad exception for e-filing/e-service).	2(b)	Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5 Origin of Project: ITAC Resources: JATS and ITAC Key Objective Supported: 1	January 1, 2017	Amended rules and revised forms
10.	Marsden transcripts – Consider whether to recommend a rule amendment to clarify requirement to provide copy of Marsden transcript to defendant’s	2(b)	Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5 Origin of Project: Suggestion received from Court of Appeal	January 1, 2017	Amended rule

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	appellate counsel or, if not yet appointed, the district appellate project		Clerk/Administrator Resources: N/A Key Objectives Supported: 1 and 2		
11.	Amicus Briefs – Consider whether to recommend amendments to rules on amicus briefs to address whether a party may file a response to an amicus supporting that party and whether to develop rules regarding amicus briefs in writ proceedings	2(b)	Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5 Origin of Project: Suggestions received from Court of Appeal Justice and committee member Resources: N/A Key Objective Supported: 2	January 1, 2017	New and amended rules
12.	Record on Appeal in Juvenile Case – Consider whether to develop rule regarding the record in cases where the appellant is not a party who would ordinarily have access to the record of the trial court proceedings	2(b)	Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5 Origin of Project: Suggestion received from attorney at California Appellate Project Resources: N/A Key Objective Supported: 2	January 1, 2018	Amended rule
13.	Verification of Writ Petitions - Consider whether to recommend amendments to the rules regarding writ petitions to	2(b)	Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5	January 1, 2018	Amended rule

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	consistently reflect statutory requirements for verification of petitions		<p>Origin of Project: Suggestion received from appellate attorney</p> <p>Resources: N/A</p> <p>Key Objective Supported: 2</p>		
14.	<p>Civil Case Information Statement - Consider whether to recommend revising this form to add a proof of service</p>	2(b)	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from clerk of Court of Appeal</p> <p>Resources: N/A</p> <p>Key Objective Supported: 2</p>	January 1, 2018	Revised form
15.	<p>Appealability of Orders Following Voluntary Dismissal – Consider whether to recommend amendments to statute on appealability to permit appeals from orders following a voluntary dismissal</p>	2	<p>Judicial Council Direction: Strategic Plan Goal 3, Operational Plan Objective 5</p> <p>Origin of Project: Suggestion received from attorney</p> <p>Resources: Governmental Affairs staff assistance in working with appropriate constituencies on proposal and in presenting recommendations to PCLC.</p> <p>Key Objective Supported: 2</p>	January 1, 2019	Amended statute

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2015 Annual Agenda and provide the status for the project.]

#	Project ⁵	Completion Date/Status
1.	<p>Improve Rules and Forms: This is a continuing project; it was listed as item 1 on the committee’s annual agendas for 2012 – 2015. Working through the Rules Subcommittee, review legislative and case law changes and suggestions from committee members, justices, judges, court staff, the bar, and the public concerning appellate rules and forms and appellate court administration and make recommendations to the council for necessary changes to appellate rules, standards, and forms.</p>	<p>Completed for 2015. All rule and forms suggestions received through October 31, 2015 have been reviewed and prioritized. Those assigned priority 1 or 2 are listed as new proposals on this annual agenda</p> <p>Ongoing This is part of the committee’s general charge and is an ongoing project. It is listed as item 1 on the list of 2016 committee projects.</p>
2.	<p>Review Pending Legislation: This is a continuing project; it was listed as item 2 on the on the committee’s annual agendas for 2012 – 2015. Working through the Legislative Subcommittee, review pending legislation affecting appellate court administration and make recommendations to the Policy Coordination and Liaison Committee as to whether the council should support or oppose the legislation.</p>	<p>Completed for 2015. All legislation received through October 30, 2015 has been reviewed and recommendations made to PCLC.</p> <p>Ongoing This is part of the committee’s general charge and is an ongoing project. It is listed as item 2 on the list of 2016 committee projects.</p>
3.	<p>Reporter’s transcripts: Consider whether to recommend/support amendments to statute requiring that the original reporter’s transcript be in paper format</p>	<p>The committee worked on this project, including meeting with representatives of the California Court Reporter’s Association. Based on those meetings, the committee did not pursue a legislative proposal last year. This remains as item 3 on the list of 2016 committee projects with a proposed new completion date of January 1, 2018.</p>

⁵ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

#	Project ⁵	Completion Date/Status
4.	Reporter's transcripts: Consider whether to recommend rule amendments to address party and clerk responsibilities when parties purchase reporter's transcript directly from reporter pro tempore	This project was not completed last year, due to delays in identification of court executive officers to provide expertise. This remains as item 4 on the list of 2016 committee projects with a proposed new completion date of January 1, 2017.
5.	Designation of the record: Consider whether to recommend revisions to the forms for designating the record in civil appeals (Forms APP-003, APP-010, APP-103, and APP-110) to change the requirement that a fee waiver application or order be "attached" to a requirement that it be submitted with the designation.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Revised forms will take effect January 1, 2016.
6.	Record on appeal in juvenile cases - Consider whether to recommend amendments to the rules regarding the record on appeal in juvenile cases to clarify requirements for inclusion of items relating to Indian Child Welfare Act compliance.	Partially completed. After considering this suggestion, the committee concluded that the items suggested for inclusion in the record by the proponent were too broad and therefore did not seek to circulate a proposal during the last rules cycle. The committee intends to work with the proponent this year to develop a narrower proposal. This is item 5 on the list of 2016 committee projects with a proposed new completion date of January 1, 2017.
7.	Case management conferences: Consider whether to recommend amendments to rule 8.248 that would permit a justice who participated in a case management conference in an appeal to participate in the determination of that appeal.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rule will take effect January 1, 2016.
8.	Court records: Consider whether to recommend adoption of new rules to address public access to electronic court records.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. New rules will take effect January 1, 2016.

#	Project ⁵	Completion Date/Status
9.	Electronic service: Consider whether to recommend rule amendments to clarify that a court may be served electronically if the court consents to receive this form of service.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rules will take effect January 1, 2016.
10.	Modernize Appellate Court Rules for E-Filing and E-Business c. Review appellate rules to ensure consistency with e-filing practice; evaluate, identify and prioritize potential rule modifications where outdated policy challenges or prevents e-business. d. Consider rule modifications to remove requirements for paper versions of documents (by amending individual rules or by introducing a broad exception for e-filing/e-service).	Phase 1 of this project completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rules will take effect January 1, 2016. The committee intends to work on Phase 2 of this project this year. This is item 9 on the list of 2016 committee projects with a proposed completion date of January 1, 2017.
11.	Appendixes: Consider whether to recommend amendments to rule 8.124 to eliminate the preference for preparation of a joint appendix.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rule will take effect January 1, 2016.
12.	Respondent's notice designating the record: Consider whether to recommend revising the forms for respondents in civil cases (APP-010 and APP-110) to designate additional items to be included in the record on appeal to clarify when the respondent must deposit a fee.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Revised forms will take effect January 1, 2016.
13.	Costs on appeal: Consider whether to recommend (1) amendments to rule 8.278 to change the deadline for filing a memorandum of costs from 40 days after the clerk sends notice of issuance of the remittitur to	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rule and revised form will take effect January 1, 2016.

#	Project ⁵	Completion Date/Status
	40 days after issuance of the remittitur; and (2) revisions to the memorandum of costs form (form MC-013), to better reflect costs that are typically claimed.	
14.	Ruling on objections in summary judgment proceedings: Consider developing proposed rule amendments addressing ruling on objections in summary judgment proceedings.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Amended rules will take effect January 1, 2016.
15.	Required content of record in criminal appeals: Consider whether to recommend amendments to rule 8.320 to require that opening statements be included in the reporter's transcripts in felony appeals.	Completed August 2015. The committee circulated a proposal for public comment in Spring 2015. Based on the public comments, the committee decided not to recommend adoption of a rule change at this time.
16.	Writs on Small Claims Matters: Develop procedural rules for writ proceedings relating to actions by small claims division other than post-judgment enforcement orders.	Completed October 2015. Proposal presented to and approved by the Judicial Council at its October 27, 2015 meeting. Rule amendments will take effect January 1, 2016.
17.	Transfer of appellate division cases - Consider whether to recommend a rule amendment requiring a party petitioning to transfer an appellate division case to the Court of Appeal to attach a copy of the trial court's denial of the party's request to certify the case for transfer.	Completed March 2015. After reviewing this issue, the committee concluded that a rule change was not needed.
18.	Marsden transcripts – Consider whether to recommend a rule amendment to clarify requirement to provide copy of Marsden transcript to defendant's appellate counsel or, if not yet appointed, the district appellate project	To be completed January 1, 2017. It is listed as item 10 on the list of 2015 committee projects.

#	Project ⁵	Completion Date/Status
19.	Presumption from the record - Consider whether to recommend a rule amendment to clarify that presumption does not apply if agreed or settled statement used in lieu of a reporter's transcript	After further consideration, the committee has concluded that this issue has not arisen with sufficient frequency to warrant development of a rule change at this time and so is not including this on its annual agenda this year.
20.	Service of briefs in misdemeanor cases - Consider whether to recommend a rule amendment to make rule on service of briefs in misdemeanor cases more consistent with rule in felony cases	After further consideration, the committee has decided to refer this to the Appellate Division Subcommittee to consider and so is not including this on its annual agenda this year.

IV. Subgroups/Working Groups - Detail

<p>Subgroups/Working Groups:</p> <p style="text-align: center;"><i>Subcommittees including only AAC members</i></p> <p><i>Subgroup or working group name:</i> Rules Subcommittee</p> <p><i>Purpose of subgroup or working group:</i> To review legislative and case law changes and suggestions from committee members, justices, judges, court staff, the bar, and the public concerning appellate rules and forms and appellate court administration and make recommendations to the council for necessary changes to appellate rules, standards, and forms</p> <p><i>Number of advisory body members on the subgroup or working group:</i> 13</p> <p><i>Number and description of additional members (not on this advisory body):</i> None</p> <p><i>Date formed:</i> In existence since at least 2001</p> <p><i>Number of meetings or how often the subgroup or working group meets:</i> 3-6 conference call meetings per year</p> <p><i>Ongoing or date work is expected to be completed:</i> Ongoing</p> <p><i>Subgroup or working group name:</i> Legislative Subcommittee</p> <p><i>Purpose of subgroup or working group:</i> To review pending legislation affecting appellate court administration and make recommendations to the Policy Coordination and Liaison Committee as to whether the council should support or oppose the legislation</p> <p><i>Number of advisory body members on the subgroup or working group:</i> 6</p>
--

Number and description of additional members (not on this advisory body): None

Date formed: In existence since at least 2001

Number of meetings or how often the subgroup or working group meets: 1-3 conference call meetings per year

Ongoing or date work is expected to be completed: Ongoing

Subgroup or working group name: **Subcommittee to consider concerns regarding privacy protection in appellate opinions**

Purpose of subgroup or working group: Consider whether to recommend amendments to the Rules of Court or other actions to better protect the privacy of victim, witness, or other such information in appellate opinions (see proposed project 6 above).

Number of advisory body members on the subgroup or working group: Anticipate approximately 6 members.

Number and description of additional members (not on this advisory body): None anticipated, but the subcommittee will consult with the Family and Juvenile Law Advisory Committee, Access and Fairness Advisory Committee, Criminal Law Advisory Committee, Civil and Small Claims Advisory, Committee, Joint Appellate Technology Subcommittee, and Information Technology Advisory Committee as needed.

Date formed: New – the committee is requesting permission to form this subcommittee

Number of meetings or how often the subgroup or working group meets: Anticipate 5-6 conference call meetings per year

Ongoing or date work is expected to be completed: January 1, 2017

Subcommittees including members in addition AAC members

Subgroup or working group name: **Appellate Division Subcommittee**

Purpose of subgroup or working group: The Appellate Advisory Committee (AAC) is responsible for developing proposals and reviewing suggestions for improving the rules and forms for the superior court appellate division. This subcommittee will assist the committee in performing this function. The new subcommittee is needed because the committee does not have sufficient members with experience in appellate division proceedings to appropriately perform this function.

Number of advisory body members on the subgroup or working group: At least three (3) members from the AAC, appointed by its Chair

Number and description of additional members (not on this advisory body):

(a) At least two (2) judges serving in the appellate division, appointed by the Chair of the Trial Court Presiding Judges Advisory Committee

(b) At least two (2) court administrators with experience in appellate division matters, appointed by the Chair of the Court Executives Advisory Committee

The subcommittee membership will not exceed 10 members.

Date formed: Not yet formed. Formation approved by RUPRO December 2013.

Number of meetings or how often the subgroup or working group meets: Anticipate 3 to 5 meetings per year, by conference calls.

Ongoing or date work is expected to be completed: Ongoing.

Subgroup or working group name: **Joint Appellate Technology Subcommittee**

Purpose of subgroup or working group: The Joint Appellate Technology Subcommittee makes recommendations to its oversight advisory committees (ITAC and AAC) for improving the administration of justice within the appellate courts through the use of technology; and, for fostering cooperative endeavors to resolve common technological issues within the appellate courts. Neither advisory committee, AAC or ITAC, is equipped to adequately address appellate technology issues by itself. AAC lacks technology expertise and ITAC lacks expertise in appellate procedure and a focus on appellate-specific technology issues.

Number of advisory body members on the subgroup or working group: At least four (4) members from the AAC, appointed by its Chair

Number and description of additional members (not on this advisory body):

(a) At least four (4) members from the ITAC, appointed by its Chair

(b) At least one (1) member from the Appellate Presiding Justices Advisory Committee (APJAC), appointed by its Chair

The subcommittee membership will not exceed 12 members.

Date formed: Effective January 1, 2014

Number of meetings or how often the subgroup or working group meets: The subcommittee plans to meet by teleconference between 4-6 times

Ongoing or date work is expected to be completed: The Joint Appellate Technology Subcommittee will be a standing committee with no sunset date; however, the need for this subcommittee will be re-evaluated annually as part of the annual agenda development process for ITAC and AAC.

Advisory Committee or Task Force Name

Annual Agenda—2016

Approved by E&P/RUPRO: _____

I. COMMITTEE INFORMATION

Chair:	Hon. Sandy R. Kriegler
Staff:	Robin Seeley, Legal Services Office
Committee's Charge: Make recommendations to the Judicial Council to update, revise, and add topics to the Judicial Council criminal jury instructions (CALCRIM) [Rule 10.59]	
Committee Membership: 13 (see Rule 10.59); 2 appellate court justices; 6 trial court judges; 2 attorneys whose primary area of practice is criminal defense; 2 attorneys whose primary area of practice is representing the People of the State of California in criminal matters; 1 law school professors whose primary area of expertise is criminal law.	
Subcommittees/Working Groups: The committee has one subcommittee consisting of six local members who meet to pre-vet all materials before they go to the full committee for review.	
Committee's Key Objectives for 2016: 1. Revise criminal jury instructions (CALCRIM) as required by developments in the law to ensure that they remain current at all times; 2. Respond to all queries, comments, and suggestions from the bench and bar with regard to CALCRIM; 3. Propose new jury instructions to cover additional subject areas, including possible complete new series; and 4. Provide proposed technical or editorial corrections to the criminal jury instructions.	

II. COMMITTEE PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	Maintenance—Case Law and Legislation: Review case law and new legislation affecting jury instructions to determine whether changes to the criminal jury instructions are required.	1	Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10.59 Resources: None Key Objective Supported: 1	Ongoing, with delivery to Judicial Council at February and August meetings	Criminal jury instructions
2.	Maintenance—Comments From Users: Review comments received from jury instruction users and propose any necessary changes and improvements.	1	Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10.59 Resources: None Key Objective Supported: 2	Ongoing, with delivery to Judicial Council at February and August meetings	Criminal jury instructions
3.	New Instructions and Expansion into New Areas: Review suggestions received from jury instruction users, new legislation, and case law and propose new criminal jury instructions as appropriate.	1	Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10. Resources: None Key Objective Supported: 3	Ongoing, with delivery to Judicial Council at February and August meetings	Criminal jury instructions

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
4.	Technical Corrections: Make any necessary corrections or editing changes to the jury instructions.		Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10.59 Resources: None Key Objective Supported: 4	Ongoing, with delivery to Judicial Council at February and August meetings	Criminal jury instructions

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2015 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
	Maintenance—Case Law and Legislation: Review case law and new legislation affecting jury instructions to determine whether changes to the criminal jury instructions are required.	Ongoing. Releases presented to Judicial Council for approval in February 2015 and August 2015.
	Maintenance—Comments From Users: Review comments received from jury instruction users and propose any necessary changes and improvements.	Ongoing. Releases presented to Judicial Council for approval in February 2015 and August 2015.
	New Instructions and Expansion into New Areas: Review new legislation and case law and suggestions received from jury instruction users and propose new criminal jury instructions as appropriate.	Ongoing. Releases presented to Judicial Council for approval in February 2015 and August 2015.
	Technical Corrections: Make any necessary corrections or editing changes to the jury instructions.	Ongoing. Releases presented to Judicial Council for approval in February 2015 and August 2015.

IV. Subcommittees/Working Groups - Detail

Subcommittees/Working Groups:

Subcommittee or working group name: CALCRIM Subcommittee

Purpose of subcommittee or working group: Pre-vets material before it goes to the full committee

Number of advisory group members: 5 (all local except for chair)

Number and description of additional members (not on this advisory group): None

Date formed: 1997

Number of meetings or how often the group meets: Twice per year

Ongoing or date work is expected to be completed: Ongoing

Advisory Committee on Civil Jury Instructions

Annual Agenda—2016

Approved by RUPRO: _____

I. COMMITTEE INFORMATION

Chair:	Hon. Martin J. Tangeman
Staff:	Bruce Greenlee, Legal Services
Committee's Charge: Make recommendations to the Judicial Council to update, revise, and add topics to the Judicial Council civil jury instructions (CACI) [Rule 10.58]	
Committee Membership: 14 (see Rule 10.58); 6 appellate court justices; 7 trial court judges (including the chair); 11 attorneys whose primary area of practice is civil litigation; 1 law school professor whose primary area of expertise is civil law.	
Subcommittees/Working Groups: The committee has three subcommittees (referred to internally as working groups). Each working group reviews a third of the proposed meeting agenda before the full committee meeting and makes recommendations to the committee regarding each proposal.	
Committee's Key Objectives for 2015: 1. Revise civil jury instructions (CACI) as required by developments in the law to ensure that they remain current at all times; 2. Respond to all queries, comments, and suggestions from the bench and bar with regard to CACI; 3. Propose new jury instructions to cover additional subject areas, including possible complete new series; and 4. Provide proposed technical or editorial corrections to the civil jury instructions.	

II. COMMITTEE PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Maintenance—Case Law and Legislation: Review case law and new legislation affecting jury instructions to determine whether changes to the civil jury instructions are required.</p>	1	<p>Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law.</p> <p>Origin of Project: Ongoing charge from Judicial Council per Rule 10.58</p> <p>Resources: None</p> <p>Key Objective Supported: 1</p>	Ongoing, with delivery to Judicial Council at June and December meetings	Civil jury instructions
2.	<p>Maintenance—Comments From Users: Review comments received from jury instruction users and propose any necessary changes and improvements.</p>	1	<p>Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law.</p> <p>Origin of Project: Ongoing charge from Judicial Council per Rule 10.58</p> <p>Resources: None</p> <p>Key Objective Supported: 2</p>	Ongoing, with delivery to Judicial Council at June and December meetings	Civil jury instructions

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
3.	New Instructions and Expansion into New Areas: Review suggestions received from jury instruction users, new legislation, and case law and propose new civil jury instructions as appropriate.	1	Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10.58 Resources: None Key Objective Supported: 3	Ongoing, with delivery to Judicial Council at June and December meetings	Civil jury instructions
4.	Technical Corrections: Make any necessary corrections or editing changes to the jury instructions.		Judicial Council Direction: Draft and maintain jury instructions that accurately and understandably state the law. Origin of Project: Ongoing charge from Judicial Council per Rule 10.58 Resources: None Key Objective Supported: 4	Ongoing, with delivery to Judicial Council at June and December meetings	Civil jury instructions

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2015 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
	Maintenance—Case Law and Legislation: Review case law and new legislation affecting jury instructions to determine whether changes to the civil jury instructions are required.	Ongoing. Releases presented to Judicial Council for approval on June 26, 2015 and December 11, 2015.
	Maintenance—Comments From Users: Review comments received from jury instruction users and propose any necessary changes and improvements.	Ongoing. Releases presented to Judicial Council for approval on June 26, 2015 and December 11, 2015.
	New Instructions and Expansion into New Areas: Review new legislation and case law and suggestions received from jury instruction users and propose new civil jury instructions as appropriate.	Ongoing. Releases presented to Judicial Council for approval on June 26, 2015 and December 11, 2015.
	Technical Corrections: Make any necessary corrections or editing changes to the jury instructions.	Ongoing. Releases presented to Judicial Council for approval on June 26, 2015 and December 11, 2015.

IV Subcommittees/Working Groups - Detail

Subcommittees/Working Groups:

Subcommittee or working group name: **Working Group 12**

Purpose of subcommittee or working group: **Review one-third of proposed agenda for full committee meeting and make recommendations to the full committee as to whether to approve or reject each agenda item**

Number of advisory group members: **8**

Number and description of additional members (not on this advisory group): **None**

Date formed: **September 2003**

Number of meetings or how often the group meets: **Twice a year in June and December**

Ongoing or date work is expected to be completed: **Ongoing**

Subcommittee or working group name: **Working Group 34**

Purpose of subcommittee or working group: **Review one-third of proposed agenda for full committee meeting and make recommendations to the full committee as to whether to approve or reject each agenda item**

Number of advisory group members: **8**

Number and description of additional members (not on this advisory group): **None**

Date formed: **September 2003**

Number of meetings or how often the group meets: **Twice a year in June and December**

Ongoing or date work is expected to be completed: **Ongoing**

Subcommittee or working group name: **Working Group 56**

Purpose of subcommittee or working group: **Review one-third of proposed agenda for full committee meeting and make recommendations to the full committee as to whether to approve or reject each agenda item**

Number of advisory group members: **8**

Number and description of additional members (not on this advisory group): **None**

Date formed: **September 2003**

Number of meetings or how often the group meets: **Twice a year in June and December**

Ongoing or date work is expected to be completed: **Ongoing**

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (July 1 cycle)**

RUPRO Meeting: December 10, 2015

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Court Records: Records Sampling and Destruction (Amend Cal. Rules of Court, rule 10.855; amend Government Code section 68153)

Committee or other entity submitting the proposal:

Court Executives Advisory Committee

Staff contact (name, phone and e-mail):

Tara Lundstrom, 415-865-7650

tara.lundstrom@jud.ca.gov

Josely Yangco-Fronda, 415-865-7626

josely.yangco-fronda@jud.ca.gov

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

Approved by RUPRO: November 2012

Project description from annual agenda: Consider Revisions to Rule 10.855 (Superior Court Records Sampling Program)

CEAC will review and consider amendments to rule 10.855 (superior court records sampling program). In the Fall of 2012, various court executive officers proposed rule changes that could possibly lead to cost savings. The review and repeal of rule 10.855(f) was one of these proposals.

Rule 10.855(f) requires three courts assigned in rotation by the Judicial Council to preserve 100 percent of their court records for a calendar year. All other courts must preserve a systematic sample of 10 percent or more of each year's court records and a 2 percent subjective sample of the court records scheduled to be destroyed.

In November 2012, RUPRO referred this proposal to CEAC's Records Management Subcommittee and the following committees for future consideration and action: Civil and Small Claims Advisory Committee; Criminal Law Advisory Committee; Family and Juvenile Law Advisory Committee; and Probate and Mental Health Advisory Committee. The proponent of this proposal stated that these records take up space and cost money to store. There are many case types that already require permanent retention of the case files. Therefore, without a sampling program, courts are already retaining a high percentage of unlimited civil case files in probate, family law and civil case types where statutes require permanent retention (e.g. eminent domain, quiet title, CEQA, etc.).

If requesting July 1 or out of cycle, explain:

The change is urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts.

Current rules impose a substantial hardship on superior courts because they require the preservation of a large number of court records. The purpose of this proposal is to substantially reduce the overall number of court records preserved, while still retaining a sample of court records that is statistically significant sample of statewide records. The proposal seeks to strike a reasonable balance between storage costs and possible research requirements. Overall, the rule proposal would result in substantial cost savings for the courts because it would significantly reduce the number of court records that courts must preserve forever. The rules and legislative proposals would positively affect operations by simplifying the destruction process.

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

This is a joint legislative and rules proposal. RUPRO is asked to review the rules proposal, which recommends amending rule 10.855, to determine whether it should be circulated for public comment during the winter rules cycle. At its October 26, 2015 meeting, the Judicial Council's Policy Coordination and Liaison Committee approved the circulation of the proposal to amend Government Code section 68153.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Court Records: Records Sampling and Destruction	Review and submit comments by January 22, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Government Code section 68153; amend Cal. Rules of Court, rule 10.855	July 1, 2016
Proposed by	Contact
Court Executives Advisory Committee	Tara Lundstrom, 415-865-7650
Richard D. Feldstein, Chair	tara.lundstrom@jud.ca.gov
	Josely Yangco-Fronza, 415-865-7626
	josely.yangco-fronza@jud.ca.gov

Executive Summary and Origin

The Court Executives Advisory Committee (CEAC) proposes amending the rule relating to the sampling of court records to substantially reduce the number of records that superior courts are required to keep, thus reducing court costs, while still ensuring that courts preserve a statistically significant sample of court records for future research purposes. The committee also proposes amending the statute regarding the destruction of court records to eliminate the requirement that superior courts must report destroyed court records to the Judicial Council. This burdensome requirement is unnecessary because the courts are required to keep records locally of any destruction.

Background

Before the enactment of Assembly Bill 796 in 1989, all court records had to be microfilmed before they could be destroyed. To reduce the high annual costs of storage and microfilming, the County Clerks Association and the Association of Municipal Clerks cosponsored AB 796. As introduced, AB 796 would have allowed for the destruction of all court records after their retention periods expired. As finally enacted, AB 796 included former section 69503(e) of the Government Code, which provided that superior courts must keep “a scientifically valid sample of cases” in order “to preserve judicial records of historical or other research interest.” AB 796 also directed the Judicial Council to develop a plan for implementing sampling statewide. The

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

Judicial Council adopted a rule to that effect in 1992. Although this rule has since been amended and renumbered as rule 10.855, it remains substantially the same today.¹

In 1994, the Legislature enacted Assembly Bill 1374, which repealed Government Code section 69503(e) and replaced it with section 68150(f), which has since been relettered as subdivision (i). This provision requires only that superior courts preserve comprehensive historical and sample court records for research purposes, but has not defined these categories or specified how many court records must be preserved. AB 1374 also added Government Code section 68153, which requires that superior courts report any court records that they have destroyed to the Judicial Council.

The Rule Proposal

Rule 10.855 “establishes a program to preserve in perpetuity for study by historians and other researchers all superior court records filed before 1911 and a sample of superior court records filed after December 31, 1910, to document the progress and development of the judicial system, and to preserve evidence of significant events and social trends.”² As part of this program, this rule currently includes specific requirements for courts to retain comprehensive historical records and either a longitudinal or a combination of a systematic and a subjective sample of court records (the specifics of each of these requirements is discussed in more detail below). The rule also allows the Judicial Council to determine if an augmented sample is needed.

As explained further below, the committee has concluded that the goal of rule 10.855 can be achieved without retaining the voluminous number of court records that are currently kept by the courts. The purpose of this proposal is to substantially reduce the overall number of court records preserved, while still retaining a statistically significant sample of statewide records. The proposal seeks to strike a reasonable balance between storage costs and possible future research requirements.

This rule proposal would amend rule 10.855 by eliminating the systematic, subjective, and augmented samples and by revising the longitudinal sample and comprehensive records requirement. The benefits of this proposal include (1) reducing the storage needs of superior courts by over 90 percent, (2) eliminating the need for superior courts to identify and select systematic and subjective sample court records every year, (3) eliminating subjective criteria that cause implementation difficulties, and (4) requiring courts to preserve sample court records only once every 19 years. CEAC strongly endorses this proposal because it would alleviate the substantial burden imposed on the courts by the current sampling program.

¹ For example, the rule was amended in 2000 after unification of the superior and municipal courts to clarify that the scope of the rule had not expanded to include records that were previously filed in municipal courts. Accordingly, the rule was amended to exclude “records of limited civil, small claim, misdemeanor, or infraction cases” from the scope of the rule. (See Cal. Rules of Court, rule 10.855(b).) Today, the rule continues to exclude these records from its scope.

² Cal. Rules of Court, rule 10.855(a).

Comprehensive historical records

Rule 10.855(c) requires that courts preserve forever all comprehensive court records, which are defined as (1) all records filed before 1911; (2) if practicable, all records filed after 1910 and before 1950; (3) all case indexes; (4) all judgment books if the court maintains judgment records separate from the case files; (5) all minute books if the court maintains minutes separate from the case files; and (6) all registers of action.

This proposal would retain but revise this requirement by keeping current items (1)–(3), eliminating items (4)–(6), and adding a new requirement to preserve records for cases in which the California Supreme Court has issued a written decision.

Pre-1950 records and case indexes. The proposal would maintain the requirement in rule 10.855(c) that courts preserve all records filed before 1911; if practicable, all records filed after 1910 and before 1950; and all case indexes (subdivisions (c)(1), (2), and (3)). The committee’s view was that retaining these records is consistent with Government Code section 68150(i)’s requirement for the preservation of comprehensive historical court records. In addition, the preservation of these pre-1950 records does not impose a significant burden on the superior courts. The costs related to storing these records are relatively minimal.

Judgment books. The proposed amendments would eliminate the requirement in rule 10.855 to retain judgment books (subdivision (c)(4)) because it is redundant and unnecessary. All judgments for unlimited civil and felony cases³—whether they are kept in the case files or kept separately⁴—must already be preserved permanently under Government Code section 68152.⁵

Minute books. The proposed amendments would eliminate the requirement to retain minute books (subdivision (c)(5)) because it creates varying records retention practices among courts statewide. Government Code section 68152 does not differentiate between minutes kept in the case files and those kept separately in minute books;⁶ both are eligible for destruction under the statute once the retention period for the underlying case type has expired.⁷ Nonetheless, rule

³ Rule 10.855 does not apply to records of limited civil, small claims, misdemeanor, or infraction cases. (Cal. Rules of Court, rule 10.855(b).)

⁴ Judgments must be entered into a judgment book. (Code Civ. Proc., § 668.) But this requirement does not apply if the court files the judgment in the court file, so long as either (1) a microfilm copy of the individual judgment is made, or (2) the judgment is first entered in the register of actions or into the court’s electronic data-processing system. (*Id.*, § 668.5.)

⁵ See Gov. Code, § 68152(a)(3), (c)(2), (g)(8).

⁶ The clerk of the superior court is required to keep the minutes of the court, entering “any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made.” (Gov. Code, § 69844.) The clerk may maintain the permanent minutes of court orders in minute books, which are kept separately from case files. (2 Witkin, Cal. Proc. (5th ed. 2008) Courts, § 364, p. 464.) Alternatively, where a court order or local rule requires placing individual minute orders chronologically in the case file, clerks do not need to keep a minute book. (Gov. Code, § 69844.7.)

⁷ Gov. Code, § 68152(g)(11) (minute orders kept separately. Because Government Code section 68151(a) defines “court record” as including “[a]ll filed papers and documents in the case folder,” the court record would include

10.855(c)(5) requires those courts that keep minute books to preserve them permanently, resulting in different records retention practices depending on whether the court keeps minute books or files minute orders in case files.

Registers of action. The proposed amendments would eliminate the requirement to retain registers of actions (subdivision (c)(6)) because it also creates divergent records retention practices among courts statewide. In lieu of keeping a register of actions, the court “may maintain a register of actions by preserving all the court records filed, lodged, or maintained in connection with the case.”⁸ Government Code section 68152(g)(16) provides that registers of action must be retained for the same retention period as records in the underlying case.⁹ Yet, as with minute books, rule 10.855(c)(6) requires only those courts that keep registers of action to preserve them permanently, resulting in varying records retention practices depending on whether the court keeps registers of action or preserves all court records filed, lodged, or maintained in connection with the case in the case file.

Cases in which there is a Supreme Court decision. Lastly, the proposed amendments would add to rule 10.855(c) the requirement that courts preserve the court records for cases in which the California Supreme Court has issued a written decision. These records are currently labeled as “subjective sample” records. The proposed amendments would relocate this requirement from subdivision (f)(2) to subdivision (c), with the modification described below.

Longitudinal sample

Rule 10.855(f) currently requires that all courts preserve a longitudinal sample of court records. In the longitudinal sample, three courts assigned in rotation by the Judicial Council must preserve 100 percent of their court records for a calendar year. In practice, each court is selected roughly every 19 years.

This proposal would retain this requirement but modify it to ensure that the sample is statistically significant. Similar to the current longitudinal sample, three courts would continue to be randomly selected in a given year, and each court would be required to preserve the longitudinal sample roughly every 19 years. However, the proposal would revise the longitudinal sample in two significant ways, described below.

Preservation of a partial sample. Courts would be required to maintain only a percentage of records for their selected year sufficient to ensure a statistically valid sample, instead of 100

minute orders placed in the case file under section 69844.7. These minute orders would then become eligible for destruction once the retention period for the underlying case type has expired.

⁸ Gov. Code, § 69845.5.

⁹ Government Code section 68152(g)(16) does provide an exception for civil and small claims cases, which must be retained for at least 10 years. This exception would have no bearing here because rule 10.855 applies only to unlimited civil cases (Cal. Rules of Courts, rule 10.855(b)), which already must be retained for a period of 10 years. (Gov. Code, § 68152(a)(2).)

percent of their court records, as is currently required. All courts except for the Superior Court of Los Angeles County would be required to retain 25 percent of their records (i.e., every fourth case filed) for the year they are selected to participate in the longitudinal sample. Given the considerably greater number of cases filed with the court compared to other courts, the Superior Court of Los Angeles County would be required to retain only 10 percent of its records (i.e., every tenth case filed) for the year that it is selected.

Based on information provided by the Judicial Council's Office of Court Research, CEAC estimates that retaining only a modified longitudinal sample would significantly reduce the overall number of court records that must be preserved for future research purposes by superior courts. The number of court records would decrease from an estimated 3.5 million to 240,000 over the 19-year period.

Preservation of judgment books, minute books, and registers of action. As described further above, this proposal would eliminate the requirement in rule 10.855(c) that the court must retain all judgment books kept separately from the case files, all minute books kept separately from the case files, and all registers of action. To ensure that all records relevant to the longitudinal sample cases are retained, the proposed amendments would require courts to preserve all judgment books, minute books, and registers of action for their assigned longitudinal year sample.

Systematic sample records

Rule 10.855(f) requires that any court not participating in the longitudinal sample in a given year must preserve a systematic sample consisting of 10 percent or more—but no less than 100 cases—of that year's court records. This proposal would amend rule 10.855 to eliminate this requirement in its entirety.

Eliminating the systematic sampling requirement would result in significant savings for superior courts in terms of operational and storage costs. Moreover, these savings would not result in the loss of a statistically valid statewide sample because courts would still be required to preserve the longitudinal sample.

Subjective sample records

Rule 10.855(f) also requires that those courts not participating in the longitudinal sample must preserve a subjective sample of at least 2 percent, but no fewer than 20 cases, of each year's court records. The subjective sample must include (1) all cases accepted for review by the California Supreme Court; (2) "fat files," or the thickest perceived case files; and (3) cases deemed by the court to be of local, national, or international significance.

Eliminating the subjective sample. With one exception (described below), this proposal would eliminate the subjective sample due to implementation problems. The lack of clear-cut guidelines and criteria has made it difficult for courts to determine which cases are "fat files" or are "of

local, national, or international significance.” CEAC members also reasoned from their experience that the thickness of a case file was often a better indicator of the litigiousness of the parties than the significance of the issues involved.

Because the destruction of court records is discretionary under Government Code section 68152, superior courts would still be authorized to retain any court records identified internally as significant (e.g., high-profile cases covered by the media). (See also Cal. Rules of Court, rule 10.855(a) [“This rule is not intended to restrict a court from preserving more records than the minimum required”].) Under this proposal, however, superior courts would no longer be required to preserve 2 percent of their court records each year and would be free from employing arbitrary indicators of significance, such as the size of the case file.

Preservation of court records for cases granted review by the California Supreme Court. This proposal would retain, but slightly modify, the requirement that courts preserve records for “all cases accepted for review by the California Supreme Court.” To better reflect which cases are of potential interest for historical and research purposes, this proposal would revise this requirement to provide for the preservation of records in “[a]ll noncapital cases in which the California Supreme Court has issued a written decision.”

The California Supreme Court grants review in hundreds of cases for which it never issues, and never intends to issue, a written decision. Instead, it holds these cases in abeyance pending its adjudication of a lead case expected to resolve issues presented in these “grant and hold” cases. This practice has evolved since the sampling program was first introduced in the early 1990s and has come to include a growing number of cases. Under the proposed language, superior courts would preserve the records of only those cases where the court issues a written decision; they would not be required to preserve records in the “grant and hold” cases.

In addition, the proposed amendment excludes capital cases for several reasons. Capital cases are excluded from this requirement under the current rule because these cases are not “accepted for review”; instead, capital cases are automatically appealable to the California Supreme Court. Moreover, all capital cases resulting in a death sentence must already be retained forever under Government Code section 68152(c)(1). This proposal would add an Advisory Committee Comment to explain why capital cases are not included in this requirement.

Augmented sample records

Rule 10.855(g) grants the Judicial Council discretion to “designate a consultant to review, under the guidance of a qualified historian or archivist, court records scheduled for destruction and determine if the court’s systematic sample should be augmented to improve representation of the variety of the cases filed.” Since the rule was adopted in 1994, the Judicial Council has not opted to exercise its discretion under subdivision (g). Nor are CEAC members aware of any superior courts that have preserved an augmented sample under this subdivision. The proposal would amend the rule to eliminate the augmented sample in light of the fact that it has not been utilized.

Retroactive implementation

New subdivision (k) would be added to clarify the application of the rule amendments. Whereas some superior courts regularly review their court records for destruction, others do not and have instead preserved all records by default. Under this proposal, the amended rule would apply retroactively for those courts that have kept their records. It would not apply retroactively to those courts that have been actively destroying eligible records and complying with the current sampling requirements. Instead, these latter courts would be required to comply with the new sampling requirements going forward, starting with the date that the new rule goes into effect.

Other proposed amendments to rule 10.855

Government Code section 68151(a) defines the term “court record” for purposes of the statutes governing records creation, retention, and destruction (Gov. Code, § 68150 et seq). Senate Bill 1489 (Harman; Stats. 2012, ch. 283) amended subdivision (a)(2), effective January 1, 2013, to delete the reference to “paper exhibits.” This proposal would similarly eliminate the reference to “paper exhibits” from the definition of “court record” in rule 10.855(e)(3).

Lastly, the proposal would combine current subdivisions (i) and (k) into one subdivision because both address the storage of comprehensive and sample court records in local archival facilities.

The Legislative Proposal

Under Government Code section 68153, superior courts must provide a “list of the court records destroyed within the jurisdiction of the superior court . . . to the Judicial Council in accordance with the California Rules of Court.” In turn, rule 10.855(l) requires each superior court to submit semiannually to the Judicial Council form REC-003, *Report to Judicial Council: Superior Court Records, Destroyed, Preserved, and Transferred*, which includes the following information: (1) a list by year of filing of the court records destroyed; (2) a list by year of filing and location of the court records of the comprehensive and sample court records preserved; and (3) a list by year of filing and location of the court records transferred to entities under rule 10.856.

The legislative proposal would amend Government Code section 68153 to eliminate the reporting requirement.¹⁰ Complying with this requirement is time-consuming and burdensome for superior courts, and Judicial Council staff has received no requests for these forms. Moreover, when superior courts destroy court records under Government Code section 68153, they are required to make a notation of the date of destruction on the index of cases or on a separate destruction index. This statutory requirement ensures that superior courts establish appropriate mechanisms for tracking whether a court record has been destroyed. Unaware of any reason for tracking these records on a statewide level, CEAC reasons that tracking is best left at the local level.

¹⁰ If the Legislature enacts this amendment to Government Code section 68153, CEAC intends to recommend eliminating subdivision (l) of rule 10.855.

Alternatives Considered

CEAC considered three alternatives to the proposed amendments to rule 10.855. Because Government Code section 68150(i) requires the preservation of “comprehensive historical and sample court record[s],” none of the alternatives contemplated completely eliminating the list of comprehensive records identified in rule 10.855(c) or eliminating the requirement that superior courts retain a sample of their court records.

Alternative one: Maintain the longitudinal sample as is

The first alternative would have eliminated the systematic, subjective, and augmented samples, but maintained the current longitudinal sample without any modification. CEAC decided against recommending this alternative primarily because courts would still have to retain 100 percent of their records during their selected year when this is unnecessary to produce a statistically valid sample.

Alternative two: Maintain the current systematic sample

The second alternative would have maintained the systematic sample but eliminated the longitudinal, subjective, and augmented samples. Under this alternative, all superior courts would have been required to retain 10 percent of their records every year. This alternative has the advantage of allowing for research into trends within particular courts, which will not be possible under the rule amendments the committee is proposing because records from an individual court would be available only every 19 years.

Nonetheless, CEAC decided against recommending this alternative for two reasons. First, this alternative would still impose a substantial burden on the courts in terms of operational and storage costs. It would require courts to preserve considerably more court records each year than they would under this proposal.

Second, CEAC inferred from the stated purpose of rule 10.855—“to document the progress and development of the judicial system, and to preserve evidence of significant events and social trends”—that the council intended to preserve records for research into broader questions of a statewide nature. This rule proposal would advance this purpose by preserving a statistically valid statewide sample of court records.

Alternative three: Modify the systematic sample

The last alternative considered by CEAC would have eliminated the longitudinal, subjective, and augmented samples and maintained the systematic sample, but with modifications. Under this alternative, the 10 percent annual sampling rate for the systematic sample would vary depending on the size of the court.

This alternative presents the same benefit as alternative two in that researchers could study trends within a particular court. At the same time, it would more closely approximate the reduction in total court records presented in the rule amendments the committee is proposing. CEAC ultimately decided against this alternative because (1) it would differentially impact the courts,

with smaller courts retaining a larger systematic sample than they do currently, and (2) courts would still have to comply with the sampling process yearly, resulting in significant operational costs.

Implementation Requirements, Costs, and Operational Impacts

Overall, the rule proposal would result in substantial cost savings for the courts because it would significantly reduce the number of court records that courts must preserve forever. The rules and legislative proposals would positively affect operations by simplifying the destruction process: courts would no longer be required to set aside 10 percent of court records each year and would not be required to report destroyed court records to the Judicial Council.

For any superior court that actively reviews its court records to determine whether they are eligible for destruction, implementation of the rule proposal would require establishing new records management procedures and processes for identifying which court records must be preserved as sample and historical court records under the amended rule. It would also require training court staff on the new procedures and processes.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

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

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

Attachments

1. Proposed amendments to Cal. Rules of Court, rule 10.855, pages 10–14
2. Proposed amendments to Government Code section 68153, page 15

Rule 10.855 of the California Rules of Court would be amended, effective July 1, 2016, to read:

1 **Rule 10.855. Superior court records sampling program**

2
3 **(a) Purpose**

4
5 This rule establishes a program to preserve in perpetuity for study by historians and
6 other researchers all superior court records filed before 1911 and a sample of
7 superior court records filed after December 31, 1910, to document the progress and
8 development of the judicial system, and to preserve evidence of significant events
9 and social trends. This rule is not intended to restrict a court from preserving more
10 records than the minimum required.

11
12 **(b) Scope**

13
14 “Records” of the superior court, as used in this rule, does not include records of
15 limited civil, small claims, misdemeanor, or infraction cases.

16
17 **(c) Comprehensive and significant records**

18
19 Each superior court must preserve forever comprehensive and significant court
20 records as follows:

- 21
22 (1) All records filed before 1911;
- 23
24 (2) If practicable, all records filed after 1910 and before 1950;
- 25
26 (3) All case indexes; and
- 27
28 ~~(4) All judgment books if the court maintains judgment records separate from the~~
29 ~~case files;~~
- 30
31 ~~(5) All minute books if the court maintains minutes separate from the case files;~~
32 ~~and~~
- 33
34 ~~(6) All registers of action if the court maintains them.~~
- 35
36 (4) All noncapital cases in which the California Supreme Court has issued a
37 written decision.

38
39 **(d) Sample records**

40
41 If a superior court destroys court records without preserving them in a medium
42 described in ~~(h)~~ (g), the court must preserve forever a sample of each year’s court

1 records as provided by this rule of all cases, including sealed, expunged, and other
2 confidential records to the extent permitted by law.

3
4 **(e) Court record defined**

5
6 The “court record” under this rule consists of the following:

- 7
8 (1) All papers and documents in the case folder; but if no case folder is created
9 by the court, all papers and documents that would have been in the case
10 folder if one had been created; and
11
12 (2) The case folder, unless all information on the case folder is in papers and
13 documents preserved in a medium described in ~~(h)~~ (g); and
14
15 (3) If available, corresponding depositions, ~~paper exhibits~~, daily transcripts, and
16 tapes of electronically recorded proceedings.
17

18 **(f) Sampling technique**

19
20 Three courts assigned in rotation by the Judicial Council must preserve ~~400 a~~
21 random sample of 25 percent of their court records for a calendar year
22 (“longitudinal sample”), with the exception of the Superior Court of Los Angeles
23 County, which must preserve a random sample of 10 percent of its court records for
24 a calendar year. Each assigned court must also preserve all judgment books, minute
25 books, and registers of action if maintained separately from the case files, for the
26 calendar year. All other courts must preserve a systematic sample of 10 percent or
27 more of each year’s court records and a 2 percent subjective sample of the court
28 records scheduled to be destroyed, as follows:
29

30 ~~(1) The “systematic sample” must be selected as follows after grouping all cases~~
31 ~~scheduled to be destroyed by filing year:~~

32
33 ~~(A) If the cases scheduled to be destroyed for a filing year number~~
34 ~~more than 1,000 cases, the sample must consist of all cases in~~
35 ~~which the last digit of the case number (0–9) coincides with the~~
36 ~~last digit of the year in which the case was filed.~~

37
38 ~~(B) If the cases scheduled to be destroyed for a filing year number~~
39 ~~from 100 to 1,000, the sample must consist of cases selected by~~
40 ~~(1) dividing the number of cases filed by 100, rounding fractions~~
41 ~~down to the next lower number, and (2) counting the cases and~~
42 ~~preserving each case with a position number in the files or other~~

1 record that corresponds with the number computed (for example,
2 670 cases ÷ 100 = 6.7; select every sixth case).

3
4 (C) If fewer than 100 cases of a filing year are scheduled to be
5 destroyed, all of the cases must be preserved.

6
7 (D) If the records to be destroyed are old, unnumbered cases, the
8 sample must consist of cases identified by counting the cases (0–
9 9) and preserving each case with a position number in the file or
10 other record that corresponds with the number determined under
11 (A) or (B), unless fewer than 100 cases are to be destroyed.

12
13 (2) The “subjective sample” must consist of at least 2 percent of all cases
14 scheduled to be destroyed, but not fewer than the court records of 20 cases,
15 and must include (1) all cases accepted for review by the California Supreme
16 Court, (2) “fat files” or the thickest perceived case files, and (3) cases deemed
17 by the court to be of local, national, or international significance. These cases
18 must be identified by stamp or mark to distinguish them from the systematic
19 sample. The Judicial Council will provide each court with a list of cases
20 accepted for review by the California Supreme Court each year.

21
22 **(g) Augmented sample; designated advisory consultant**

23
24 (1) The Judicial Council may designate a consultant to review, under the
25 guidance of a qualified historian or archivist, court records scheduled for
26 destruction and determine if the court’s systematic sample should be
27 augmented to improve representation of the variety of cases filed.

28
29 (2) The court should give the designated consultant 60 days’ notice of intent to
30 destroy any court records that it does not plan to retain for the sample.

31
32 (3) The designated consultant’s role is advisory to the court. If the consultant
33 determines that the systematic sample does not represent the variety of cases
34 filed in a sample year, the court should select a random sample of cases to
35 augment the systematic sample.

36
37 (4) Final selection of the court records to augment the sample is to be made by
38 the clerk of the superior court.

39
40 **(h) (g) Preservation medium**

41
42 (1) Comprehensive and significant court records under (c) filed before 1911 must
43 be preserved in their original paper form unless the paper is not available.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

(2) Comprehensive and significant court records under (c) that are part of the comprehensive sample filed after 1910 and sample records under (d), the systematic sample, and the subjective must be retained permanently in accord with the requirements of the *Trial Court Records Manual*.

(i) Storage

~~Until statewide or regional archival facilities are established, each court is responsible for maintaining its comprehensive and sample court records in a secure and safe environment consistent with the archival significance of the records. The court may deposit the court records in a suitable California archival facility such as a university, college, library, historical society, museum, archive, or research institution whether publicly supported or privately endowed. The court must ensure that the records are kept and preserved according to commonly recognized archival principles and practices of preservation.~~

(j) (h) Access

The court must ensure the following:

- (1) The comprehensive, significant, and sample court records are made reasonably available to all members of the public.
- (2) Sealed and confidential records are made available to the public only as provided by law.
- (3) If the records are preserved in a medium other than paper, equipment is provided to permit public viewing of the records.
- (4) Reasonable provision is made for duplicating the records at cost.

~~(k)~~ (i) Choosing an archival facility Storage

(1) Until statewide or regional archival facilities are established, each court is responsible for maintaining its comprehensive, significant, and sample court records in a secure and safe environment consistent with the archival significance of the records. The court may deposit the court records in a suitable California archival facility such as a university, college, library, historical society, museum, archive, or research institution whether publicly supported or privately endowed. The court must ensure that the records are kept and preserved according to commonly recognized archival principles and practices of preservation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

(2) If a local archival facility is maintaining the court records, the court may continue to use that facility’s services if it meets the storage and access requirements under (h) and ~~(j)~~(i)(1). If the court solicits archival facilities interested in maintaining the comprehensive, significant, and sample court records, the court must follow the procedures specified under rule 10.856, except that the comprehensive, significant, and sample court records must not be destroyed. Courts may enter into agreements for long-term deposit of records subject to the storage and access provisions of this rule.

(j) Reporting requirement

Each superior court must submit semiannually to the Judicial Council a *Report to the Judicial Council: Superior Court Records Destroyed, Preserved, and Transferred* (form REC-003), including the following information:

- (1) A list by year of filing of the court records destroyed;
- (2) A list by year of filing and location of the court records of the comprehensive and sample court records preserved; and
- (3) A list by year of filing and location of the court records transferred to entities under rule 10.856.

(k) Application

The sampling program provided in this rule, as amended effective July 1, 2016, applies to all superior courts on and after July 1, 2016. It also applies retroactively to any superior courts that did not participate in the sampling program set forth in previous versions of this rule because it preserved court records indefinitely.

Advisory Committee Comment

Subdivision (c)(4). Capital cases are excluded under subdivision (c)(4) because these cases have an automatic right of appeal to the California Supreme Court and trial court records are retained permanently under Government Code section 68152(c)(1) if the defendant is sentenced to death.

Government Code section 68153 would be amended, effective January 1, 2017, to read:

1 **Government Code section 68153**

2

3 Upon order of the presiding judge of the court, court records open to public inspection
4 and not ordered transferred under the procedures in the California Rules of Court,
5 confidential records, and sealed records that are ready for destruction under Section
6 68152 may be destroyed. Destruction shall be by shredding, burial, burning, erasure,
7 obliteration, recycling, or other method approved by the court, except confidential and
8 sealed records, which shall not be buried or recycled unless the text of the records is first
9 obliterated.

10

11 Notation of the date of destruction shall be made on the index of cases or on a separate
12 destruction index. ~~A list of the court records destroyed within the jurisdiction of the~~
13 ~~superior court shall be provided to the Judicial Council in accordance with the California~~
14 ~~Rules of Court.~~