

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

**SPR19-25**

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Title	Action Requested
Juvenile Law: Transfer of Jurisdiction to Criminal Court	Review and submit comments by June 10, 2019
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 5.766, 5.768, and 5.770; revise forms JV-060-INFO and JV-710	January 1, 2020
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Tracy Kenny, 916-263-2838 <a href="mailto:tracy.kenny@jud.ca.gov">tracy.kenny@jud.ca.gov</a>
Hon. Jerilyn L. Borack, Cochair	
Hon. Mark A. Juhas, Cochair	

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### Executive Summary and Origin

Recent changes in the law on the transfer of jurisdiction to a criminal court for children 14 and 15 years of age require rule and form changes to be consistent with the new provisions. Senate Bill 1391 (Lara; Stats. 2018, ch. 1012) amends Welfare and Institutions Code section 707 to provide that a child must be at least 16 years of age to be considered for transfer of jurisdiction to criminal court unless the individual for whom transfer is sought was 14 or 15 at the time of the offense, the offense is listed in section 707(b), and the individual was not apprehended until after the end of juvenile court jurisdiction. To implement these age-related changes in the jurisdiction of the juvenile court, the Family and Juvenile Law Advisory Committee proposes amending three rules of court and one form pertaining to the transfer-of-jurisdiction process and an informational form to reflect the new provisions.

### Background

On November 8, 2016, the people of the State of California enacted Proposition 57, the Public Safety and Rehabilitation Act of 2016, effective November 9, 2016. Proposition 57 amended existing law to require that the juvenile court consider a motion by the district attorney or other appropriate prosecuting officer to transfer the minor to the jurisdiction of the criminal court before a juvenile can be prosecuted in a criminal court. To that end, the proposition repealed Welfare and Institutions Code section 602(b),<sup>1</sup> which had provided that certain serious and

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<sup>1</sup> Hereinafter, all 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.*

violent felonies were to be prosecuted in criminal court, as well as section 707(d), which had authorized the district attorney to directly file an accusatory pleading involving certain minors in criminal court. In addition, the proposition eliminated a set of presumptions that applied in determining whether a case should be transferred and instead provided the court with broad discretion to determine whether the child should be transferred to a court of criminal jurisdiction, taking into account numerous factors and criteria.

SB 1391 further amended these provisions to limit the transfer of cases involving offenders ages 14 and 15 to those in which the alleged offender is not apprehended until after reaching adulthood and the offense is one listed in section 707(b). Since January 1, 2019 district attorneys have lodged challenges to the constitutionality of the law in at least 10 counties. Trial courts have ruled both in favor and against upholding the constitutionality of the statute, and thus, its status is in question. The committee is aware of this uncertainty and will monitor these legal challenges as it determines whether to implement the legislation via rule and form changes.<sup>2</sup>

### **The Proposal**

To implement the new jurisdictional changes, the transfer rules and forms must be changed. In addition, the information form for parents whose children have been arrested must be updated to contain the accurate information about transfer of jurisdiction to criminal court and the lower limit on jurisdiction for children under 12 years of age in most cases.

### **Transfer rules 5.766, 5.768, and 5.770**

The current rules of court governing the process for transfer of jurisdiction from juvenile to criminal court provide that transfer can occur when the subject of the petition is age 14 or 15 and is alleged to have committed an offense listed in Welfare and Institutions Code section 707(b) or is 16 years of age or older and is alleged to have committed a felony. These rules must be amended to clarify that a transfer petition may be considered only for those who were 14 or 15 years of age at the time of the offense when the individual who is the subject of the petition was apprehended after the end of juvenile court jurisdiction. In addition, the changes to section 707 require that code references be updated to reflect the new structure of the statute.

### **Transfer order form JV-710**

*Order to Transfer Juvenile to Criminal Court Jurisdiction* (form JV-710), for optional use, would be revised to update item three to include the limitation on transferring individuals who were age 14 or 15 at the time of the offense to those situations in which apprehension of the subject of the petition occurred after the end of juvenile court jurisdiction, and to update item 4 to correct the statutory reference to 707(a)(2) and make it 707(a)(3), consistent with the changes enacted by SB 1391.

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<sup>2</sup> Sara Tiano, "[Landmark Juvenile Justice Reform Challenged by California DAs](#)," *Chronicle of Social Change*, Jan. 30, 2019.

### **Information form for parents (JV-060-INFO)**

To provide accurate information to parents about when a juvenile case can be transferred to criminal court, *Juvenile Justice Court: Information for Parents (JV-060-INFO)* would be revised to reflect the limitations on transfer of people 14 and 15 years of age.

### **Alternatives Considered**

Given the current legal uncertainty about whether SB 1391 is valid law, the committee considered postponing circulation of a proposal for comment until the underlying litigation is final. This approach, however, would leave the courts very far behind in having rules and forms that accurately reflect the law if SB 1391 is ultimately found to be a lawful amendment to section 707. For this reason, the committee is choosing to move this proposal forward in the process at the same time as the litigation progresses so that the council can implement accurate rules and forms in a timely manner, if appropriate.

### **Fiscal and Operational Impacts**

The restrictions on the use of transfer to criminal court for juvenile offenders ages 14 and 15 will result in the filing of fewer transfer petitions for these youth and, thus, fewer hearings on those petitions. These impacts are the result of legislative changes. The revisions to JV-060-INFO may impose additional printing costs for any courts that need to replace existing copies of this form with the revised information form.

## **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 rule 5.770 or form JV-710 be modified in to *C.S. v. Superior Court*, 29 Cal.App.5th 1009 (2018), which held that the court must clearly articulate its findings for each criterion in issuing a transfer order?

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 four 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 5.766, 5.768, and 5.770, at pages 5–6
2. Forms JV-060-INFO and JV-710, at pages 7–16
3. Link A: Senate Bill 1391,  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB1391](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1391)

Rules 5.766, 5.768, and 5.770 of the California Rules of Court would be amended, effective January 1, 2020, to read:

1 **Rule 5.766. General provisions**

2  
3 **(a) Hearing on transfer of jurisdiction to criminal court (§ 707)**

4  
5 A child who is the subject of a petition under section 602 and who was 14 years or older at  
6 the time of the alleged felony offense may be considered for prosecution under the general  
7 law in a court of criminal jurisdiction. The district attorney or other appropriate  
8 prosecuting officer may make a motion to transfer the child from juvenile court to a court  
9 of criminal jurisdiction, in one of the following circumstances:

10  
11 (1) The ~~child~~ individual was 14 ~~or 15~~ years ~~or older~~ of age at the time of the alleged  
12 offense listed in section 707(b) and was not apprehended before the end of juvenile  
13 court jurisdiction.

14  
15 (2) The child was 16 years or older at the time of the alleged felony offense.

16  
17 **(b)–(d) \* \* \***

18  
19 **Rule 5.768. Report of probation officer**

20  
21 **(a) Contents of report (§ 707)**

22  
23 The probation officer must prepare and submit to the court a report on the behavioral  
24 patterns and social history of the child being considered. The report must include  
25 information relevant to the determination of whether the child should be retained under the  
26 jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal court,  
27 including information regarding all of the criteria in section 707(a)~~(2)~~(3). The report must  
28 also include any written or oral statement offered by the victim pursuant to section 656.2.

29  
30 **(b)–(c) \* \* \***

31  
32 **Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707**

33  
34 **(a) \* \* \***

35  
36 **(b) Criteria to consider (§ 707)**

37  
38 Following receipt of the probation officer's report and any other relevant evidence, the  
39 court may order that the child be transferred to the jurisdiction of the criminal court if the  
40 court finds:

1 (1) The child was 16 years or older at the time of any alleged felony offense, or the ~~child~~  
2 individual was 14 or 15 years at the time of an alleged felony offense listed in  
3 section 707(b) and was not apprehended before the end of juvenile court jurisdiction;  
4 and

5  
6 (2) The child should be transferred to the jurisdiction of the criminal court based on an  
7 evaluation of all of the criteria in section 707(a)~~(2)~~(3) as provided in that section.

8  
9 **(c)-(h) \* \* \***

*Juvenile justice* court (sometimes called *delinquency* court) is a court that decides if a child broke the law. The juvenile justice court helps to protect, guide, and rehabilitate children. And it helps keep the community safe.

This information sheet answers common questions that many parents have. It has three sections:

1. What Happens When Your Child Is Arrested
2. **Your Child's** Court Hearings and Orders
3. How to Keep Your Child's Juvenile Court Record Private

This form describes the juvenile justice court process. Some children who break the law and become involved with law enforcement or probation never need to go to court.

## 1 What Happens When Your Child Is Arrested

This section is about:

- What to expect when your child is arrested,
- What your child's legal rights are,
- What the *notice to appear* and the *petition* are,
- What it means to transfer your child to adult court, and
- What a *probation officer* does.

### My child was arrested. What happens next?

Your child might be brought home or allowed to go home with you. Note that if your child is under 12 years of age, special rules apply and unless the arrest is for murder or certain serious sex crimes, your child will not be subject to a juvenile justice court, but will instead get services from one or more county agencies.

You will be given or mailed a notice to appear that tells you the date, time, and place you and your child need to go to the probation department or juvenile court. Talk to a qualified juvenile defense lawyer about your child's case. Many juvenile defenders offer free consultations.

**Warning!** You and your child *must* go to the meeting listed on the notice to appear even if no one contacts you again. Sometimes the meeting will be at probation. Sometimes the notice will order you to go to the juvenile court.

**Your child might NOT be sent home immediately after the arrest.**

If that happens, the officer who arrested your child may:

- Let your child go later.
- Take your child to juvenile hall and keep them there. This is called *in-custody detention*. If this happens, the arresting officer *must* try to contact you immediately to tell you where your child is and that your child is in custody.



### What are my child's legal rights after arrest?

 Your child has the right to make at least **two phone calls** within **1 hour** of being arrested.

- One call must be a *completed* call to a parent, guardian, responsible relative, or employer.
- The other call must be a *completed* call to a lawyer.
- If your child is currently in court-ordered foster care, your child may also be allowed to call a foster parent or social worker.

### Will they tell my child about the right to remain silent?

Yes. Before any officer asks your child about what happened, the officer must first tell your child about your child's *Miranda* rights.

They will say:





“You have the right to remain silent. Anything you say will be used against you in court. You have a right to have a lawyer with you during questioning. If you or your parents cannot afford a lawyer, one will be appointed for you.”

**NOTE:** If your child is 15 years old or younger and in custody, your child *must* talk to a lawyer—in person, by phone, or by videoconference (like Skype or FaceTime)—before answering any questions or giving up any rights. Your child cannot decide to answer questions or give up rights without first talking to a lawyer.

### Does my child need a lawyer?

If a petition is filed, your child has a right to an *effective* and *prepared* court-appointed lawyer, who must have specific education and training in juvenile justice cases. Many parents hire a lawyer for their child as soon as the child is arrested.



Your child’s lawyer represents only your child, not you, even if you are paying for that lawyer.

### Do I need a lawyer for myself?

The court can order you to do things for your child and can order you to pay *restitution* to the *victim*. Some parents hire lawyers for legal advice about these issues.

**NOTE:** If you think you need your own lawyer and cannot afford to hire one, you can ask the court to appoint a lawyer for you. The court will decide whether to appoint you a lawyer. If it does, you might be ordered to pay back the cost of the lawyer if the court decides you can.

### If my child is required to meet with probation, how can we get ready?

It’s a good idea to get legal advice. A defense lawyer who specializes in juvenile justice cases can help you understand your child’s rights and know what to expect. Try to find school records and other information that shows what you and your child are doing to get back on track.

**At the meeting,** the probation officer will talk with you and your child to figure out the best way to handle your child’s case.

**NOTE:** At this meeting, the probation officer must tell you and your child about the *Miranda* rights. Any information you or your child share with the probation officer might be shared with the court or the prosecuting

attorney (DA).

- If the alleged offense is not serious or it’s the first time your child has been accused of breaking the law, the probation officer might just tell your child what they did was wrong (reprimand them) and let your child go.
- The probation officer might offer to let your child do a special *diversion program* instead of going to court. Each county has different rules and different programs. If you and your child agree to the program and your child does everything the program requires, the juvenile court does not need to get involved.
- If the offense is more serious, the probation officer might refer your child’s case to the prosecuting attorney (DA). If the prosecutor decides to file charges, they will file a petition in juvenile court. That’s what the rest of this form is about.

### What happens if my child is taken to juvenile hall after getting arrested?

The probation officer can decide to:

- Keep your child in custody, or
- Let your child go home with you.

If the officer lets your child go, they may still:

- Ask the DA to file a petition, and
- Set limits on what your child is allowed to do while at home.

If the officer does *not* let your child go, a petition *must* be filed within 48 hours of the arrest. A detention hearing must be held the next day the court is in session. The courts are closed on Saturdays, Sundays, and holidays. You and your child *must* be given a copy of the petition. **Exception:** If your child is under 8, your child does not have a right to get a copy of the petition.

### How long can they keep my child in juvenile hall?

The judge will decide at the detention hearing. The judge may release your child or keep your child in juvenile hall until the next hearing or until the whole case is over.

### Can I visit my child in juvenile hall?

Usually, but before you go, contact the juvenile hall or the probation officer to find out when you can see your child.

### What if the probation officer says a petition will be filed?

The petition states the things your child is accused of or charged with. It means your child's case will be sent to juvenile court. You have the right to receive a copy of the petition. If you have not received a copy of the petition, ask the probation officer or the court clerk for one.

The petition says your child did something against the law and asks the juvenile court to decide that what it says is true, but it does not prove anything.

**Read the Petition Carefully!** It is important to know what your child is accused of.

### Are all petitions the same?

No. Each petition is tailored to the child and the alleged offense. There are two kinds of petitions:

A **601 Petition** is filed when a child has:

- Run away,
- Skipped school a lot,
- Violated a curfew, or
- Regularly disobeyed a parent or guardian.

These petitions are filed by the probation department at the juvenile court. If the court decides the charges are true, your child can become a "ward" of the court. That means the court will supervise your child, and your child must obey the court's orders.

A **602 Petition** is for a charge that would be a *misdemeanor* (like shoplifting or simple assault) or *felony* (like stealing a car, selling drugs, rape, or murder) if an adult had done it.

These petitions are filed by the prosecuting attorney (DA). If the court decides the charges are true, the judge can:

- Order your child put on probation,
- Make your child a "ward" of the court, and
- Order your child placed out of your home or committed (locked up).

**NOTE:** If your family is involved with the child welfare system, talk with your lawyer about what your child's arrest means for that case. Depending on everything that

has happened, the court might decide that it's best for your child to stay in the child welfare system, to be supervised in the juvenile justice system, or to be supervised and served in both systems.

### Can my child's case be moved to adult court?

In certain situations, the prosecuting attorney (DA) can ask the juvenile court to transfer your child's case to adult criminal court. If that happens, talk to your child's lawyer right away. Adult criminal cases are handled very differently and there may be very serious consequences for your child.

A case can be transferred to adult court only if your child is:

- 16 years old or older, and
- Charged with a felony.

### What does the probation officer do?

Probation officers investigate children's situations and backgrounds and write reports for the court. They also supervise children to see if they are doing what the court has ordered them to do.

### Why does the probation officer write a report?

The probation officer writes reports to give the court information about your child. The reports give the judge a description of your child's situation, including life at home and school, the current charge(s), and any previous arrests or petitions. It can also include:

- Statements from your child, you, your family, and other people who know your child well;
- A school report;
- A statement by the victim; and
- Recommendations about what the court should do if the judge finds that your child did what the petition says.

### When does the judge see the reports?

The probation officer presents a report at the *detention hearing*, *disposition hearing*, and each *review hearing*. The judge uses the reports to help decide how to handle your child's case.

## 2 Your Child's Court Hearings and Orders

If a petition is filed in your child's case, you and your child will have to go to juvenile court. Each time you go to court is called a "hearing." You may have to go to several court hearings. This section is about:

- What happens at the different court hearings,
- What happens after the hearings,
- What if your child becomes a ward of the court, and
- What your duties and responsibilities as a parent are.



### Get Ready for Court

#### How will I find out about court hearings?

*If your child is in custody*, both you and your child will get notice at least 5 days before the hearing. Someone will deliver it personally or by certified mail.

*If your child is not in custody*, both you and your child will get notice of each court hearing at least 10 days before the date of the hearing. Someone will deliver it personally, by first-class mail, or, if you agree, electronically.

#### Can I go to my child's court hearings?

Yes. In fact, the law says you *must* go. The judge decides what is best for your child. Depending on the charges, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may let your child go home with you.

#### How many times will we have to go to court?

You and your child will probably need go to court several times. There will be different kinds of hearings where the court makes different decisions. *See page 8 for a table of different hearing types.*

#### Do we have the right to an interpreter?

Your child has a right to an interpreter. You might have a right to one, too. Ask for one if you do not speak English well and don't understand everything being said in court.

#### Can I speak at the court hearings?

Yes. You may speak when:

- The judge asks you questions,
- You are called as a witness, or
- The judge gives you permission.

#### Who else speaks at the court hearings?

Your child's lawyer will speak for your child. The prosecuting attorney (DA) will speak for the government. The probation officer may speak for the Probation Department.

#### Can the victim go to the hearings?

Yes. A crime victim has a right to go to and speak at any court hearing. The victim and the victim's parents (if the victim is under 18) will get notice of the hearing. Do not talk to the victim unless your lawyer tells you to.

#### When is the first court hearing?

*If your child is in custody*, the first hearing, called the *detention hearing*, must take place on the court day immediately after the petition is filed. The probation officer or prosecuting attorney (DA) must tell you when and where the hearing will be. You will also get a copy of the petition. At this hearing, the court decides only whether your child can go home or needs to stay in custody until the next hearing.

*If your child is not in custody*, the first hearing, often called the *initial hearing*, must take place no more than 30 days after the petition is filed. In addition to the notice described earlier, you and your child will get a copy of the petition at least 10 days before the date of this hearing.

#### What is a jurisdiction hearing?

The jurisdiction hearing is when the judge decides if your child actually did what it says in the petition.

*Here's what to expect:*

- The judge will ask your child to *admit* or *deny* the charges listed in the petition.
- Your child's lawyer will consider the evidence and the possible outcomes, and then advise your child what to do.



- If your child *admits* the charges, they give up the right to a trial. The judge will decide that the petition is true.
- If your child *denies* the charges, there will be a trial (called a *contested hearing*). The court may hold the trial on another day to give your child's lawyer time to get ready.

**What happens at the "trial"?**

At the trial, the prosecuting attorney (DA) will show evidence to prove the charges. Then your child's lawyer will show evidence in your child's defense. The judge will consider all the evidence and decide if the charges are true "beyond a reasonable doubt."

*If there is not enough proof to decide the charges are true*, the judge will dismiss the case. If your child is in custody, she or he will be let go. If this happens, skip ahead to section 3 of this form.

*If the judge decides the charges are true*, there will be a *disposition hearing*. That's when the judge will say what your child will need to do and where your child will live. Sometimes this hearing is right after the jurisdiction hearing, but it can also be later on the same day or on another day.

*If your child is in custody*, the judge can order your child to stay in custody or be released until the disposition hearing.

*If you live in a different county*, the court can transfer the case to your county court for the disposition hearing. Ask your child's lawyer if that is a good idea for your child's case.

**What happens at the disposition hearing?**

The judge will decide what orders to make to protect and rehabilitate your child and to protect the community.

The judge might order your child to:

- Live at home and obey informal probation rules for up to six months.
- Live at home, be supervised by a probation officer, and obey rules set by the judge.
- Live at a relative's home, a foster family home, a private group home, or a residential treatment program; be supervised by a probation officer; and obey rules set by the judge.

- Spend time in a county camp, home, ranch, or hall (in custody) and on probation.
- Spend time in the Division of Juvenile Justice (DJJ) of the California Department of Corrections and Rehabilitation (in custody).

The judge may also order *you*, the parent, to get counseling or parent training or do other activities.

**What if the judge puts my child on probation?**

If your child is put on probation, the probation officer will supervise and work with your child to make sure that your child follows:

- The law,
- The court's orders, and
- All the rules of probation.

The probation officer will also encourage your child to do well in school and participate in job training, counseling, and community programs.

**How often will the probation officer see my child?**

Each case is different. The probation officer may meet with your child twice a week or only once a month.

**What if the judge makes my child a ward of the court?**

The juvenile law uses special language. Children who have committed offenses become wards of the court, but are not convicted. If your child becomes a ward of the court, that means the court is in charge of some of your child's care and conduct. The court does this to protect your child and the community.

**What if the judge orders my child placed in foster care?**

If the judge orders suitable out-of-home or foster placement, the probation officer may place your child in:

- An adult relative's home,
- An approved foster family home,
- A licensed private group home, or
- A residential treatment program.

### What if the court sends my child to a secure county facility?

Most wards of the court who need secure confinement are sent to county facilities, like a ranch, camp, or juvenile hall, where they can be close to their families and local rehabilitative services. Ask the probation department about your child's program and how you can visit and stay in touch.

### What if the court sends my child to DJJ?

Only wards who have committed the most serious violent actions or need intensive treatment are sent to DJJ. If the court sends your child to DJJ, visit [www.cdcr.ca.gov/Juvenile\\_Justice/](http://www.cdcr.ca.gov/Juvenile_Justice/) to get more information about where your child might go and how you can visit and stay in touch.

### If my child's case was moved to adult court, can my child be sent to adult prison?

Yes, but there are limits:

- Between the ages of 14 and 18, your child *must* stay at a juvenile facility (DJJ) *even if* sentenced to adult prison.
- If your child's sentence will end before your child turns 25, your child can stay at a juvenile facility (DJJ) for the entire sentence.
- If your child's sentence will last past the age of 25, your child can stay at DJJ until age 18, then be moved to an adult prison on the child's 18th birthday.

**Important!** If your child's case gets moved to adult court, talk to your child's lawyer right away.

### Do I have to pay for what my child did?

The court may order you to pay fines or penalties.

If the court decides that the victim is entitled to restitution, you and your child are equally responsible for paying the victim back. *Restitution* is money that pays the victim to make up for the damage or harm your child caused. Restitution can pay the victim back for:

- Stolen or damaged property,
- Medical expenses, and
- Lost wages.

If restitution is not completely paid when your child's case is closed, it will become a *civil judgment*, which can affect your credit score.

### Do I have to pay fees for services my child receives from the court or county?

No. You do not have to pay fees or pay back the cost of services, support, or an attorney *given to your child* by the county or court as part of this case.

But if you can afford it, you might have to pay back the cost of services, including an attorney, *given to you or other family members* by the county or the court.

### What are my responsibilities as a parent?

Your parental duties do not end when the court gets involved. Your child may need you now more than ever.

If the judge decides the charges in the petition are true, you may be ordered to do things to:

- Help make up for harm your child caused, and
- Keep your child out of trouble in the future.

The court may order you to:

- Take classes,
- Go to counseling, or
- Do other activities that will help you and your child.

### What if my child is in foster care or in custody?

Wherever your child goes, stay in touch as much as you can, however you can. Visit your child as often as you can. Support your child's programs and activities. Encourage your child to obey the court's orders and not to leave the placement without permission.

Find out what is happening in your child's life so that you can get ready for your child to return home. Learn how to make a protective and supportive environment for your child's return to school or work. Develop plans to hold your child accountable for their actions.

### Where can I find parenting resources?

Contact your child's probation officer. Ask for referrals to community organizations, such as parents' groups or counseling services, that can help you. Your school district and local hospital or mental health department may also have useful programs.

If you have any questions that have not been answered, you may want to contact a lawyer for help.



### 3 How to Keep Your Child's Juvenile Court Records Private

#### Will anyone be able to look at my child's juvenile records?

Maybe. Although most juvenile court records are confidential, the law sometimes allows government officials to look at them.

However, in many cases the court will "seal" your child's juvenile records. Once the records are sealed, the law treats the arrest and court case as if they never happened. That means your child can truthfully say that your child does not have a criminal or juvenile record.

**Exception:** If your child wants to join the military or get a federal security clearance, your child may need to disclose information about the juvenile record.

#### How can we seal my child's juvenile records?

It depends on your child's situation.

**Sealing at dismissal.** If the juvenile court dismisses your child's case without making your child a ward of the court, the court must seal your child's records.

If the court does make your child a ward and later dismisses the case because your child has satisfactorily completed probation, the court will also seal your child's records and send your child copies of the sealing order and form JV-596-INFO, *Sealing of Records for Satisfactory Completion of Probation*.

If your child completes a probation diversion program, the probation department will seal those records and give notice to your child.

**Sealing on request.** If your child does *not* satisfactorily complete probation or the probation diversion program, the court will *not* dismiss the case and your child's records will not be automatically sealed. Your child can either:

- Ask the court to review the probation department's decision and order the records sealed, or
- Ask the court later to seal the records. (See form JV-595-INFO, *How to Ask the Court to Seal Your Records*, for more information.)

If your child is made a ward for an offense listed in Welfare and Institutions Code section 707(b), other than sex offenses requiring the child to register as a sex offender, your child can ask the court to seal the records:

- At age 21, if your child was sent to DJJ; or
- At age 18, if your child was not sent to DJJ.

Even sealed records can be viewed by the prosecuting attorney in some cases.

**Sealing not allowed.** If the court found that that your child committed a sex offense listed in Welfare & Institutions Code section 707(b) when your child was 14 or older for which your child needs to register as a sex offender, then the court cannot seal your child's records.

#### Can my child's juvenile court record be used against him or her as an adult?

Under the three-strikes law, some serious or violent felonies committed by a child at age 16 or 17 can be counted as strikes and used against the child in the future.

## Court Hearings in Juvenile Justice Court

You and your child may have to go to court several times. Each time you go is called a “hearing.” Depending on your case, there may be different kinds of hearings to make different decisions. Here are some of them. Each time you have to go to court, you and your child (if 8 or older) will get a notice. The notice will tell you the date, time, and place to go.

Kind of Hearing	What happens at this hearing
Detention	The judge will decide if your child can go home or must stay in custody until the next hearing.
Transfer to Criminal Court	The juvenile court judge will decide if the case of a child who is 16 or older should be transferred to adult criminal court. Children under 16 cannot have their cases transferred to adult court. This hearing only happens for felony charges and only if the prosecuting attorney (DA) asks for the transfer.
Jurisdiction, part 1 (pretrial or settlement conference)	The judge, lawyers, and probation officer try to resolve the case without having a trial. The judge decides if your child actually did what the petition says. The judge will ask your child to <i>admit</i> or <i>deny</i> the charges listed in the petition. Your child’s lawyer will consider the evidence and possible outcomes, and then advise your child what to do. If your child <b>admits</b> the charges, your child will give up the right to a trial. The judge will decide that the petition is true. If your child <b>denies</b> the charges, there will be a trial, usually a week or two later.
Jurisdiction, part 2 (trial)	At the trial, the prosecuting attorney will show evidence to prove the charges. Then your child’s lawyer will present your child’s defense. The judge will consider all the evidence and decide if the charges are true “beyond a reasonable doubt.” – <b>If there is not enough proof to decide the charges are true</b> , the judge will dismiss the case. If your child is in custody, she or he will be let go. – <b>If the judge decides the charges are true</b> , there will be a disposition hearing.
Disposition	This happens <i>only</i> if the judge decides that the petition is true. The judge then decides what orders to make for your child. This hearing is often right after the jurisdiction hearing but can also be postponed to another day.
Hearings on Motions	The court decides legal questions that affect the case.
Review Hearings	This hearing provides a way for the court to check how your child is doing on probation or in placement. If your child is placed in foster care, the court must hold a review hearing at least once every six months.

**GLOSSARY OF TERMS**

**Civil Judgment:** A court order requiring a person to pay money to another person.

**Detention hearing:** The first court hearing after an arrest if the child is detained in custody.

**Felony:** An action that would be a serious crime if committed by an adult.

**In-custody detention:** Keeping a person in a secure place and not letting them go free or go home.

**Juvenile delinquency:** See *juvenile justice*, below.

**Juvenile justice:** The legal system designed to guide, rehabilitate, and protect children who break the law, and to keep the community safe. Also known as “juvenile delinquency.”

**Miranda:** The U.S. Supreme Court case that requires law enforcement to tell persons detained in custody their rights before asking them questions.

**Misdemeanor:** An action that would be a less serious crime if committed by an adult.

**Notice to appear:** A paper telling you and your child to meet with a probation officer or go to juvenile court at a specific time and place.

**Notice of hearing:** A paper telling you the date, time, and place of a court hearing, and what will happen there.

**Petition:** A paper filed with the court that says your child did something against the law.

**601 petition:** A petition filed by the probation officer that accuses your child of something that’s against the law for a child to do, for example, skipping school or breaking curfew.

**602 petition:** A petition filed by the prosecuting attorney that accuses your child of doing something that would be a crime if an adult did it.

**Probation officer:** A law enforcement officer who advises the court about the orders the child needs to protect and rehabilitate the child, and supervises the child as ordered by the court.

**Restitution:** Money owed to the victim of an act to make up for the damage or harm done.

**Terms or terms and conditions of probation:** Court orders that tell a person on probation what they must and must not do.

**Ward:** A child whom the court has decided to supervise because the child did something against the law.



ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:           <b>FOR COURT USE ONLY</b>           <b>DRAFT</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Case Name:	
<b>ORDER TO TRANSFER JUVENILE TO CRIMINAL COURT JURISDICTION</b> <b>(Welfare and Institutions Code, § 707)</b>	CASE NUMBER:

1. a. Date of hearing: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 b. Judicial officer (name): \_\_\_\_\_  
 c. Persons present:  
 Child  Child's attorney (name): \_\_\_\_\_  
 Deputy District Attorney (name): \_\_\_\_\_  Other: \_\_\_\_\_
2.  The court has read and considered  the petition and report of the probation officer  other relevant evidence.
3. **THE COURT FINDS (check one)**  
**Welfare and Institutions Code section 707**  
 a.  The child was 16 years old or older at the time of the alleged felony offense; or  
 b.  The individual was 14 or 15 years of age at the time of the alleged offense, the alleged offense is an offense listed in Welfare and Institutions Code section 707(b), and the individual was not apprehended before the end of juvenile court jurisdiction.
4. **THE COURT ALSO FINDS AND ORDERS**  
 The court has considered all of the criteria in section 707(a)(3) and makes the following findings and orders on the motion to transfer jurisdiction to the criminal court for the reasons stated on the record:
- a.  The transfer motion is denied. The child is retained under the jurisdiction of the juvenile court.  
 The next hearing is on (date): \_\_\_\_\_ at (time): \_\_\_\_\_  
 for (specify): \_\_\_\_\_
- b.  The transfer motion is granted. The prosecutor has shown by a preponderance of the evidence that the child should be transferred to the jurisdiction of the criminal court.
- (1)  The matter is referred to the District Attorney for prosecution under the general law.  
 (2)  The child is ordered to appear in criminal court on (date): \_\_\_\_\_ at (time): \_\_\_\_\_  
 in Department: \_\_\_\_\_  
 (3)  The petition filed on (date): \_\_\_\_\_ is dismissed without prejudice on the appearance date in (2).  
 (4)  The child is to be detained in  juvenile hall  county jail (section 207.1).  
 (5)  Bail is set in the amount of: \$ \_\_\_\_\_  
 (6)  The child is released  on own recognizance  to the custody of: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER