

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR19-38

| | |
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| Title | Action Requested |
| Protective Orders: New INFO Form on Protecting Minor’s Information | Review and submit comments by June 10, 2019. |
| Proposed Rules, Forms, Standards, or Statutes | Proposed Effective Date |
| Approve forms CH-160-INFO and DV-160-INFO | January 1, 2020 |
| Proposed by | Contact |
| Family and Juvenile Law Advisory Committee | Frances Ho, 415-865-7662 frances.ho@jud.ca.gov |
| Hon. Jerilyn L. Borack, Cochair | Kristi Morioka, 916-643-7056 kristi.morioka@jud.ca.gov |
| Hon. Mark A. Juhas, Cochair | |
| Civil and Small Claims Advisory Committee | |
| Hon. Ann I. Jones, Chair | |

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee jointly recommend adopting two information sheets to help litigants understand a new law that enables courts to make confidential certain information regarding a minor in civil harassment and domestic violence restraining order proceedings. The new law went into effect on January 1, 2018, under [Assembly Bill 953](#) (Stats. 2017, ch. 384).

Background

Assembly Bill 953 added section 6301.5 to the Family Code and amended section 527.6(v) of the Code of Civil Procedure. Under the new law, a minor or minor’s legal guardian may ask the court to make information relating to a minor confidential when issuing a domestic violence or civil harassment restraining order. In 2018, the Judicial Council approved a proposal to implement the new law by adopting rules 3.1161 and 5.382 of the California Rules of Court and eight new forms (a set of four in the DV series and a set of four in the CH series), effective January 1, 2019. During the comment period, a commenter suggested that an information sheet be created to provide information regarding this new law. The committees agreed and responded that an information sheet would be proposed in a future cycle to allow for public comment.

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 These proposals are circulated for comment purposes only.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

To implement AB 953, the committees propose adopting two INFO sheets, *Privacy Protection for a Minor* (form CH-160-INFO) in the Civil Harassment Prevention series and *Privacy Protection for a Minor* (form DV-160-INFO) in the Domestic Violence Prevention series.

The INFO sheets would provide litigants interested in making these requests with a high-level overview of the law and process. The committees believe that INFO sheets are needed because most litigants in these proceedings are self-represented and this new law is fairly complicated. Providing information would advance the Judicial Council's goal of providing more access to the court system.

The following information is provided on the INFO sheets:

- What the court can do to protect information regarding a minor;
- What information can be made confidential;
- Who is eligible to make this type of request;
- Whether court fees apply for this type of request;
- Tips for completing the forms;
- The effect of an approval or denial of a request for confidentiality;
- Information on how to request a disability accommodation and language interpreter; and
- Referrals to other resources, such as national hotlines.

Differences between form CH-160-INFO and form DV-160-INFO

The proposed two INFO sheets have identical content, except for form numbers, references to form numbers, information on filing fees, and outside agencies listed as resources.¹

Unlike Domestic Violence proceedings, Civil Harassment proceedings require a filing fee unless the person qualifies for an income-based fee waiver² or the allegations include violence, threats of violence, stalking, or any event that placed the moving party in reasonable fear of violence.³ Information regarding fees is on page 1 of both forms.

Several of the INFO forms in the Domestic Violence Prevention series provide information for the National Domestic Violence Hotline, as does the Judicial Council's website. The committees believe this information is important to include as a resource on DV-160-INFO, especially for individuals whose requests are denied. The hotline provides support for domestic violence victims 24 hours a day, seven days a week, including an advocate to speak to about safety

¹ These resources are listed in the "Other help" section of the forms.

² Individuals who submit a completed *Request to Waive Court Fees* (form FW-001) and qualify for a fee waiver based on Government Code sections 68630–68641.

³ Code Civ. Proc., § 527.6(y).

planning.⁴ On form CH-160-INFO, the committees recommend including the contact information for the National Sexual Assault Hotline, National Human Trafficking Hotline, and stalking hotline of the VictimConnect Resource Center (a program of the National Center for Victims of Crime), because these resources are more likely to be used by minors involved in these case types.

Alternatives Considered

The advisory committees considered including more detailed information regarding the process of keeping information confidential but did not include this detail because the process will vary by court. Instead, the committees decided to refer litigants to their local self-help centers for help if a litigant is ordered by the court to prepare redacted documents.

Fiscal and Operational Impacts

The advisory committees anticipate that any cost associated with implementation (e.g., printing costs) would be offset by cost savings associated with providing more readily available information for self-represented litigants.

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 forms easy for users to understand?
- Do you have any suggestions for improving their usability or readability?
- Should other information be included on the INFO sheets?
- Should other resources be listed in the “Other help” section, on page 2?

Attachments and Links

1. Proposed forms CH-160-INFO and DV-160-INFO, at pages 4–7
2. Link A: Assembly Bill 953,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB953

⁴ The National Domestic Violence Hotline, “What to Expect When You Contact the Hotline,” www.thehotline.org/help/what-to-expect-when-you-contact-the-hotline/ (as of Mar. 6, 2019).

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Submit to JC (without circulating for comment)**

RUPRO Meeting: April 10, 2019

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

Protective Orders: New INFO Form on Protecting Minor's Information (approve forms CH-160-INFO and DV 160 INFO)

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee and Family and Juvenile Law Advisory Committee

Staff contact (name, phone and e-mail): Kristi Morioka, 916-643-7056, kristi.morioka@jud.ca.gov

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: 10/19/2018

Project description from annual agenda: Civil and Small Claims - Item 15. Privacy of Minor's Information in Protective Orders (with Joint Protective Order Working Group). Family and Juvenile - Item 14. Privacy of Minor's Information in Protective Orders

If requesting July 1 or out of cycle, explain:

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

CH-160-INFO Privacy Protection for a Minor (Person Less Than 18 Years Old)

Can I protect information about a minor?






A judge can make information about a minor confidential. Confidential means that the public is unable to see the information. Most paperwork in your court case is open to the public; this means anyone can go to the courthouse and request to see your case file. If there is sensitive information about a minor and you do not want the public to see it, you can ask a judge to make the information confidential.

This protection can be requested for any minor who is involved in a civil harassment restraining order case (examples: protected by restraining order, witness in the case, responding to a restraining order requested against them).

What information can be made confidential?

Any information about a minor can be made confidential, for example, the minor's name, address, or any statements about how the minor was abused or witnessed abuse. If you want only the minor's address to be made confidential, you do not have to make this type of request if you have a mailing address you can use (somewhere you can receive mail like a P.O. box or someone else's address if you have their permission to use it). Make sure you will get your mail in a timely manner because this is the address the court and the other party will use to send you papers for your case.

What do I have to do to make information about a minor confidential?

| 1. Complete the forms | 2. Take the forms to court | 3. Understand the judge's order |
|---|---|---|
|  <p>You will need to complete: Form CH -160 Form CH-165 (<i>items 1 & 2 only</i>) You can get these forms online at: www.courts.ca.gov/forms See the next page for tips on completing the forms.</p> |  <p>Find out which courthouse to take your forms to by calling your local court or online at www.courts.ca.gov/find-my-court.htm. In most cases, you will not have to testify because the judge will make a decision on your request based on the forms you turn in.</p> |  <p>The judge's orders will be written on form CH-165. The judge will approve or deny (not approve) your request, see the next page for what this means.</p> |



Does this request cost money?

That depends on the type of harassment. If the restrained person has used or threatened to use violence against you or has stalked you, you do not have to pay a filing fee; otherwise, you must pay the fee.

If you cannot afford to pay the filing fee, ask the clerk how to apply for a fee waiver. Form FW-001 is available for this purpose.

If the order is based on prior acts of violence, a credible threat of violence, or stalking, you are entitled to free service of the order by a sheriff or marshal. Also, if you are eligible for a fee waiver, you can ask the sheriff or marshal to serve the order for free. If you are not eligible for free service, you may pay the sheriff or marshal to serve the order.

Who can make the request?

A minor's legal guardian or a minor. Sometimes a minor can make this request, without the help of an adult. This depends on the minor's age. If the minor is under 12 years old, the judge may want an adult to help the minor with this request. For more information on who can make the request, contact your local self-help center or a lawyer.

Tips to Complete Forms



Protecting my address: If you are asking to protect only your address, you may not need to make this request. You can use a mailing address on all your court forms, like a P.O. box or the address of someone else who has given you permission to use the address.

My right to cancel restraining order: If the judge does not approve your request to keep certain information confidential, you have the right to cancel your request for restraining order. If you want to do so, make sure you check the boxes on form CH-160, items 7(a) and 8(d)(1), if it applies.

Protecting multiple minors: Only the minors' legal guardian can make a request to protect the information for multiple minors. If you are a minor, you can make this request only for yourself.

What if I need an interpreter or disability accommodation?

Language interpreter: You may use form INT-300, *Request for Interpreter (Civil)*, to request an interpreter. Ask court staff for more information.

Disability accommodation: You may use form MC-410, *Request for Accommodations by Persons with Disabilities and Response*, to request accommodations. Use this form to request a sign language interpreter or assistive listening device. If you have questions, you may contact the disability/ADA coordinator at your local court.

Do I need a lawyer?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center or legal aid office.

Self-help center

Centers are located in every county and provide free legal information. You can find your local court's self-help center at www.courts.ca.gov/selfhelp-selfhelpcenters.htm.

Understand the Judge's Order



Look at form CH-165 to see what the judge ordered.

What if the judge approved (granted) my request?

Look closely at form CH-165 on pages 2 - 5 to see exactly what information the judge made confidential in your case. If all the information you requested to be confidential was approved by the judge, then this information will not be available to the public and will be available only to the parties in the case. In limited situations, the judge may make information confidential from the other party in your case. Take a close look at item 10 on form CH-165. This will tell you who is responsible for redacting the information and when it should be done by (deadline). Redacting means to hide (blacken out) the information so it cannot be seen.

Penalty for disclosing protected information

Information made confidential may be given to police only to help enforce the order. Misusing or giving out the information can result in a fine of up to \$1,000 or other court penalties.

What if the judge denied (did not approve) my request?

It means that if you move forward with this case, information will NOT be confidential. This means that anyone can go to your local courthouse and ask to see the documents you filed in this case.

If you asked to cancel your request for the restraining order in the event your request to make information confidential was denied then, the paperwork you turned in with this request will NOT be available to the public except for page 1 of form CH-165.

Other help

For safety tips or other help, call the following hotlines:

National Human Trafficking Hotline:

1-888-373-7888; TTY: 711;

<https://humantraffickinghotline.org>

National Sexual Assault Hotline: 1-800-656-HOPE;

www.rainn.org

Stalking hotline: 1- 855-4-VICTIM

<https://victimconnect.org/statistics/stalking>

DV-160-INFO Privacy Protection for a Minor (Person Less Than 18 Years Old)

Can I protect information about a minor?



A judge can make information about a minor confidential in a domestic violence restraining order case. Confidential means that the public is unable to see the information. Most paperwork in your court case is open to the public; this means anyone can go to the courthouse and request to see your case file. If there is sensitive information about a minor and you do not want the public to see if you can ask a judge to make the information confidential. This protection can be requested for any minor who is involved in a domestic violence restraining order case (examples: protected by restraining order, witness in the case, responding to a restraining order requested against them).

Does this request cost money?



No, there are no court fees.




Who can make the request?

A minor's parent/legal guardian or a minor can make this request. Sometimes a minor can make this request on their own, without the help of an adult. This will depend on the minor's age. If the minor is under 12 years old, the judge may want an adult to help the minor with this request. For more information on who can make the request, contact your local self-help center or a lawyer.

What information can be made confidential?

Any information about a minor can be made confidential, for example, the minor's name, address, or any statements about how the minor was abused or witnessed abuse. If you want only the minor's address to be made confidential, you do not have to make this type of request if you have a mailing address you can use (somewhere you can receive mail like a P.O. box or someone else's address if you have their permission to use it). Make sure you will get your mail in a timely manner because this is the address the court and other party will use to send you papers for your case.

What do I have to do to make information about a minor confidential?

| 1. Complete the forms | 2. Take the forms to court | 3. Understand the judge's order |
|--|---|---|
|  <p>You will need to complete: Form DV-160 Form DV-165 (items 1 & 2 only) You can get these forms online at www.courts.ca.gov/forms. See the next page for tips on completing the forms.</p> |  <p>Find out which courthouse to take your forms to by calling your local court or online at www.courts.ca.gov/find-my-court.htm. In most cases, you will not have to testify because the judge will make a decision on your request based on the forms you turn in.</p> |  <p>The judge's orders will be written on form DV-165. The judge will approve or deny (not approve) your request, see the next page for what this means.</p> |



Tips to complete forms



Protecting my address: If you are asking to protect only your address, you may not need to make this request. You can use another address where you can receive mail on all your court forms, like a P.O. box or the address of someone else who has given you permission to use their address.

My right to cancel restraining order: If the judge does not approve your request to keep certain information confidential, you have the right to cancel your request for restraining order. If you want to do so make sure you check the box on form DV-160, item 7(a) and DV-160, item 8(d)(1) if it applies.

Protecting multiple minors: Only an adult (the minors' parent/legal guardian) can make a request to protect the information for multiple minors. If you are a minor, you can make this request only for yourself.

What if I need an interpreter or disability accommodation?

Language interpreter: You may use [form INT-300, Request for Interpreter \(Civil\)](#), to request an interpreter. Ask court staff for more information.

Disability accommodation: You may use [form MC-410, Request for Accommodations by Persons with Disabilities and Response](#), to request accommodations. Use this form to request a sign language interpreter or assistive listening device. If you have questions, you may contact the disability/ADA coordinator at your local court.

Do I need a lawyer?

No, but this type of request can be hard to get through on your own. Free help may be available at your local court's self-help center or legal aid office.

Self-help center

Centers are located in every county and provide free legal information. Find out where your local court's self-help center at www.courts.ca.gov/selfhelp.

Understand the Judge's Order



Look at form DV-165 to see what the judge ordered.

What if the judge approved (granted) my request?

Look closely at form DV-165 on pages 2 - 5 to see exactly what information the judge made confidential in your case. If all the information you requested to be confidential was approved by the judge, then this information will not be available to the public and will only be available to the parties in the case. In limited situations, the judge may make information confidential from the other party in your case.

Take a close look at form DV-165, item 10. This will tell you who is responsible for redacting the information and when it should be done by (deadline). Redacting means to hide (blacken out) the information so it cannot be seen. If the judge makes you responsible for redacting all the paperwork, your local self-help center may be able to help you.

Penalty for disclosing protected information

Information made confidential may be given to police only to help enforce the order. Misusing or giving out the information can result in a fine of up to \$1,000 or other court penalties.

What if the judge denied (did not approve) my request?

It means that if you move forward with this case, information will NOT be confidential. This means that anyone can go to your local courthouse and ask to see the documents you filed in this case. If you asked to cancel your request for the restraining order in the event your request to make information confidential was denied, then the paperwork you turned in with this request will NOT be available to the public except for page 1 of form DV-165.

Other help

For safety tips or other help, call the National Domestic Violence Hotline:

1-800-799-7233; TDD: 1-800-787-3224 (TTY)

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