



JUDICIAL COUNCIL OF CALIFORNIA

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R E P O R T T O T H E J U D I C I A L C O U N C I L

For business meeting on: September 21, 2018

Title	Agenda Item Type
Juvenile Law: Decriminalization of Penal Code section 647f	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Approve forms JV-742 and JV-743	January 1, 2019
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	August 1, 2018
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Nicole Giacinti, 415-865-7598 nicole.giacinti@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee proposes approving two new forms to comply with Senate Bill 239, which requires the Judicial Council to promulgate forms to implement the legislation that repeals Penal Code section 647f and vacates convictions that were based on that code section. The proposed forms would allow those who are eligible for relief to request that their Penal Code 647f convictions be vacated and dismissed and that they be resentenced, if appropriate.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, approve:

1. Form JV-742, *Request to Vacate Disposition and Dismiss Penal Code Section 647f Adjudication*, which is a request for relief and includes sections:
 - To request resentencing and dismissal for young people who may be on probation for multiple offenses, only one of which is a section 647f violation;

- To request dismissal for young people who are no longer on probation for the section 647f violation;
 - Where the applicant can waive his or her appearance;
 - Where the applicant can ask for an interpreter; and
 - Where the applicant can waive the right to the original sentencing judge; and
2. Form JV-743, *Order After Request to Vacate Disposition and Dismiss Penal Code Section 647f Adjudication*, which allows the court to either terminate delinquency jurisdiction or state which terms of probation will be vacated.

The text of the two forms is attached at pages 4–6.

Relevant Previous Council Action

The council has taken no previous action on this topic because these forms are newly created to implement recent legislation.

Analysis/Rationale

Penal Code 647f made it a felony to engage in prostitution subsequent to an arrest that revealed the person was positive for HIV/AIDS. SB 239 (Wiener; Stats. 2017, ch. 537), implemented through Penal Code sections 1170.21 and 1170.22, allows people convicted of violating Penal Code 647f to seek to have their convictions vacated and dismissed as invalid. Those serving a sentence for a Penal Code 647f offense may not only request dismissal of the conviction but also seek to be resentenced. Section 1170.22(h) makes this relief applicable to juvenile delinquency adjudications and dispositions, and section 1170.22(i) specifically directs the Judicial Council to create forms to implement the relief.

The Criminal Law Advisory Committee is drafting forms for use in criminal proceedings; however, the differences between adult and juvenile court are significant enough that creating a joint form would be challenging.¹ Consequently, the committee proposes approving these two forms to implement the legislation.

Policy Implications

The recommended adoption of these two new forms reflect an overarching policy shift in how the juvenile justice and child welfare systems treat victims of commercial sexual exploitation. There has been recognition, at both the legislative and judicial level, that young people caught up in commercial sexual exploitation are victims, not delinquents, and should be afforded trauma informed services and care. This policy shift is occurring at both the legislative and judicial level.

¹ The Criminal Law Advisory Committee proposal, *Criminal Procedure: Judicial Council Forms for a Dismissal of a Conviction of a Violation of Penal Code Section 647f*, is available at [\[insert hyperlink\]](#).

Comments

This proposal circulated for comment as part of the spring 2018 invitation-to-comment cycle from April 6 to June 8, 2018, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, social workers, probation officers, Court Appointed Special Advocate programs, and other juvenile and family law professionals.

The committee received five comments on this proposal. All five of the commenters agreed with the proposal if it was modified. Most of the commenters suggested minor or technical changes, which the committee accepted without debate. Three issues generated discussion. The first was a recommendation made by four of the five commenters that the 5-year sunset period be lengthened to 10 years. Penal Code 647f is a charge not often seen in juvenile cases; however, lengthening the sunset period to 10 years will enable those few people who may have suffered a true finding for this offense to take advantage of the relief.

Another comment that generated discussion questioned whether forms JV-742 and JV-743 should apply to those people who are no longer on probation for a Penal Code section 647f offense, given that section 1170.21 makes dismissal and vacatur automatic in that circumstance. After discussion, the committee decided that the forms should include those who are entitled to automatic relief to ensure the vacatur and dismissal process is triggered at the trial court level.

Finally, one commenter recommended that form JV-743 include an option for the court to find that the applicant was ineligible for the relief requested and deny the request. The committee discussed this point and agreed that form JV-743 should be revised to include such a check box.

Alternatives considered

The committee considered whether creating forms to implement SB 239 was necessary, given that Penal Code section 647f is not seen in juvenile cases. Despite the rarity of this charge in juvenile cases, the committee determined that creating these forms was necessary to carry out the legislative directive to do so and to ensure that a process exists to request vacatur and dismissal for those rare juvenile cases that include this offense. The committee also considered developing joint forms with the Criminal Law Advisory Committee for use in both adult and juvenile proceedings but determined that the nomenclature used in the two case types would result in a form difficult for a lay user to navigate.

Fiscal and Operational Impacts

In implementing the revised forms, courts would incur standard reproduction costs and retraining of affected staff.

Attachments and Links

1. Forms JV-742 and JV-743, at pages 4–6
2. Chart of comments, at pages 7–25

PARTY WITHOUT AN ATTORNEY OR ATTORNEY: STATE BAR NO. (if applicable): 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:	
REQUEST TO VACATE DISPOSITION AND DISMISS PENAL CODE SECTION 647f ADJUDICATION	CASE NUMBER: Date: Time: Department:

INSTRUCTIONS

- Use this form if you went to court and were found to have committed a Penal Code section 647f offense when you were under the age of 18 and you want to be resentenced or have the charge taken off your record. You need to use a different form if you were 18 or older at the time of the offense.
- If this form asks for information that you do not have, contact your attorney. If you don't have an attorney, the public defender's office in the court or county where you went to court can probably help you get the information.
- The court will serve this form for you unless you have an attorney. If you have an attorney, he or she must serve the form.
- How to fill out the form without an attorney:
 - Put your name and contact information in the box at the top of the form and in item 1 below.
 - Put the address of the court from your court papers in the box below your address. This form must be filed in the same county where you went to court for this offense.
 - Fill out item 2 about the Penal Code section 647f offense.
 - If you are on probation now for the Penal Code section 647f offense, check item 3 to ask the judge to make new dispositional orders (a new sentence) and take the charge off your record.
 - If you have completed probation for the Penal Code section 647f offense, check item 4 to ask the judge to take the charge off your record. After the charge is taken off your record, it can't be used against you later.
 - You can check item 5 if you do not want to come to court if there is a hearing.
 - If you will need an interpreter, ask for one in item 6.
 - If you check the box in item 7, you are giving up your right to have the same judge who put you on probation hear your request. If you don't check the box in item 7, your case *may* be heard by the judge who put you on probation, or the court will have a different judge hear your request.

1. MY INFORMATION

My name is:

I was born on (date):

2. OFFENSE INFORMATION

On (date): _____ a petition was filed in _____ county that said I came within the jurisdiction of the court under Welfare and Institutions Code section 602 for a violation of Penal Code section 647f. The court found the allegations in that petition were true on (date): _____

CASE NAME:	CASE NUMBER:
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3. REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING)

I am currently subject to a dispositional order (on probation) for the Penal Code section 647f offense in item 2. I request that the dispositional order be recalled and relief be granted in accordance with Penal Code sections 1170.21 and 1170.22 so that I will get a new disposition and the charge will be dismissed.

4. REQUEST TO DISMISS ADJUDICATION AND VACATE DISPOSITION

I am no longer a ward of the court (completed probation) for the Penal Code section 647f offense in item 2. I request that the court dismiss the 647f charge (take the charge off my record) and vacate the related disposition because it is invalid under Penal Code sections 1170.21 and 1170.22.

5. WAIVER OF APPEARANCE

I understand that I have a right to attend any hearing about my request and argue on my behalf. I give up that right. The case may be heard without my presence.

6. REQUEST FOR INTERPRETER

If there is a hearing, I will need a *(language)*: _____ interpreter.

7. WAIVER OF HEARING BY JUDGE WHO ORDERED MY DISPOSITION

I give up my right to have my request heard by the judge who ordered my disposition. I know that even if I do not give up this right, the hearing might not be in front of the original judge because he or she may be unavailable.

Date:

(TYPE OR PRINT NAME)

 _____
(SIGNATURE OF PETITIONER)

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 AFTER REQUEST TO VACATE DISPOSITION AND DISMISS PENAL CODE SECTION 647f ADJUDICATION	CASE NUMBER: Date: Time: Department:

From the request filed in this matter, the records of the court, and any other evidence presented in this matter, the court finds and orders as follows:

1. NEW DISPOSITION AND DISMISSAL

- The applicant is eligible for the requested relief. The request is **GRANTED**. The court vacates the disposition related to the designated 647f adjudication and makes the following additional orders:
 - a. The following Penal Code section 647f adjudication is dismissed as legally invalid (*indicate date of petition*):
 - b. Wardship and delinquency jurisdiction are terminated.
 - c. Delinquency jurisdiction remains in effect. All prior orders remain in full force and effect. The court vacates the following terms and conditions of probation (*specify*):

2. VACATE COMPLETED PROBATION AND DISMISS ADJUDICATION

- The applicant is eligible for the requested relief. The request is **GRANTED**. The court hereby dismisses the adjudication for a violation of Penal Code section 647f as legally invalid, and vacates the associated disposition.

3. HEARING REQUIRED

- More information is needed to determine whether the applicant is eligible for the requested relief. The matter is set for a hearing on _____ (*date*) in Department _____.

4. REQUEST DENIED

- The applicant is ineligible for the requested relief. The request is denied.

IT IS SO ORDERED.

Dated: _____
JUDICIAL OFFICER

SP18-23

Juvenile Law: Decriminalization of PC 647f (adopt forms JV-742 and JV-743)

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

	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association by Nikki P. Miliband, President	AM	<p>Senate Bill 239 (Stats. 2017, ch. 537), repealed Penal Code section 647f and invalidated prior convictions under the statute. The bill also added Penal Code section 1170.22 which establishes a procedure for dismissal of convictions under section 647f and resentencing, if appropriate. Subdivision (h) of the section 1170.22, makes this relief applicable to juvenile adjudications. The proposed forms, JV-744 (“Request to Resentence and Dismiss Juvenile Penal Code section 647f Offense”) and JV-746 (Order After Request to Reduce Juvenile Penal Code Section 647f Offense”) appropriately address the stated purposes and effectively facilitate dismissal and resentencing under section 1170.22.</p> <p>Noting that children may no longer be prosecuted for prostitution, the proposal recommends the forms sunset after five years. While including a sunset date is a good idea, the relief offered by section 1170.22 may not come to the attention of qualifying individuals until much later. Accordingly, a ten-year sunset date would be more appropriate.</p>	<p>No response necessary.</p> <p>The committee agrees that it is prudent to extend the length of the sunset period to 10 years. The forms will be modified accordingly.</p>
2.	Superior Court of Los Angeles County	AM	JV-742 should include a “proof of service” section.	Form JV-742 will be served by the court when it is filed by a self-represented litigant;

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SP18-23

Juvenile Law: Decriminalization of PC 647f (adopt forms JV-742 and JV-743)

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	Commentator	Position	Comment	Committee Response
			<p>Request for Specific Comments: It is recommended that forms JV-742 and JV-743 sunset in five years. Is five years a sufficient time period to provide young people time to request vacatur or should the sunset date be later? Sunset of the forms in 5 years may be a problem, if former wards are unaware and come to the court after the 5 year period.</p> <p>Would the proposal provide cost savings? If so please quantify. There are no cost savings.</p> <p>What would the implementation requirements be for courts? Training and creation of procedures will be required.</p>	<p>consequently, a proof of service is not necessary. Likewise, attorneys typically have a standard proof of service that can be used to prove service form JV-742.</p> <p>The committee agrees that the five-year sunset period may be too short and will revise the form to sunset after 10 years.</p> <p>No response required.</p> <p>No response required.</p>
3.	Superior Court of Riverside by Susan D. Ryan, Chief Deputy of Legal Services	AM	<p>Position on the Proposal: Agree with the proposal with modifications.</p> <p>We agree that Penal Code section 1170.22 requires the development of forms and that it is beneficial to have forms that are</p>	<p>No response required.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SP18-23

Juvenile Law: Decriminalization of PC 647f (adopt forms JV-742 and JV-743)

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			<p>specific to juvenile proceedings.</p> <p>We request the Committee consider including a space on page 1 of JV-742 for the petitioner to indicate the date of the petition, if known, that is to be dismissed or resentenced.</p> <p>Response to Request for Specific Comments:</p> <ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Yes. <p>On form JV-742, page 1, it would also be helpful to have a place for the petitioner to indicate the petition date that will be dismissed or resentenced.</p> <p>On form JV-742, item 7 is confusing. Suggested modification:</p> <p>“I understand that I have the right to have the judge who originally sentenced me hear my request. I understand that if I waive this right, I may not have the hearing in front of the original judge.”</p> <p>Will hearings always be held or can these be</p>	<p>The committee will revise form JV-742 to include a request for the date of the petition.</p> <p>No response required.</p> <p>The committee will revise form JV-742 to include a space for the date of the petition.</p> <p>The committee will revise the language in item number seven to make it clearer that even if the applicant wants to be resentenced by the judge who originally sentenced them, that may not be possible. Item seven will be revised as follows: “I know that even if I do not give up this right, the hearing might not be in front of the original judge because he or she may be unavailable.”</p> <p>The committee will revise form JV-743 to</p>

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			<p>ruled on in chambers. There needs to be a place either on the JV-742 or the JV-743 for the court to set the matter for a hearing.</p> <ul style="list-style-type: none"> • Is five years a sufficient time period to provide young people time to request vacatur or should the sunset date be later? Probably, however there may be an occasional request after five years. • Would the proposal provide cost savings? No. We do not anticipate many of these cases so the creation of forms will likely not have any measureable impact. • What would the implementation requirements be for courts? Clerks' office and courtroom staff would need to be trained on how to process these types of requests and orders, approximately one hour needed. Procedures would need to be created for filing the requests, setting the hearings and completing minute entries. Codes would need to be created in the case management system for processing the documents and hearings. Procedures would also need to be updated for the sealing of records as well as processing Welfare & Institutions Code § 827 requests. 	<p>include an option for the judge to set the matter for a hearing.</p> <p>The committee agrees that the five-year sunset period may be too short and will revise the form to sunset after 10 years.</p> <p>The committee agrees that this proposal will not have any measurable financial impact.</p> <p>The committee agrees that this proposal will necessitate minimal implementation procedures.</p>

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SP18-23

Juvenile Law: Decriminalization of PC 647f (adopt forms JV-742 and JV-743)

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			<ul style="list-style-type: none"> • Would six months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes. • How well would this proposal work in courts of different sizes? The same updates to procedures, codes, and training would likely need to occur in any size court. The proposals should work the same for courts of any size. 	<p>No response required.</p> <p>The committee agrees with this assessment.</p>
4.	Superior Court of San Bernardino County by Executive Office	AM	<p>Agree with a sunset of 5 years as was done with Prop 47.</p> <p>The form will allow arrest and adjudications from various jurisdictions across the state; however, the minors are often transferred from one county to another. Clarification could be added such as the county where your case was dispositioned and the county [sic] would assist the court in ensuring the document was filed in the correct court jurisdiction.</p> <p>If the youth chooses not to appear at the</p>	<p>The committee agrees with the commentators who expressed concern that the five-year sunset period is too short. As such, the committee agrees that the five-year sunset period may be too short and will revise the form to sunset after 10 years.</p> <p>The committee agrees that it would be useful to know the county of disposition and will revise the form to include that question.</p> <p>While the committee declines to include a</p>

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SP18-23

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			<p>court hearing, there should be an area where the minor can request certified copies and indicate a mailing address if different then the address on the Request. (i.e. PO Box).</p>	<p>request for certified copies on form JV-742, the form will be revised to include a section where the applicant can include an address other than the one listed in the caption for service of the order.</p>
5.	<p>Superior Court of San Diego County by Mike Roddy, Executive Officer</p>	AM	<p><input type="checkbox"/> <i>Does the proposal appropriately address the stated purpose?</i> Yes, for the most part.</p> <p><input type="checkbox"/> <i>It is recommended that forms JV-742 and JV-743 sunset in five years. Is five years a sufficient time period to provide young people time to request vacatur or should the sunset date be later?</i> A five-year sunset date would be appropriate if the forms are only needed for active cases. By the end of five years, there should be no more active cases. If the forms are to be used for closed cases, the forms might be needed for much longer, since juvenile delinquency cases are destroyed when a person reaches 38 years of age.</p> <p><input type="checkbox"/> <i>Would the proposal provide cost savings?</i> Unknown.</p> <p><input type="checkbox"/> <i>What would the implementation requirements be for courts?</i> Print and distribute revised forms to court staff and attorneys. Train court staff how to process</p>	<p>No response required.</p> <p>The committee agrees that the five-year sunset period may be too short and will revise the form to sunset after 10 years.</p> <p>No response required.</p> <p>The committee agrees that this proposal will not have any measurable financial impact.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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	Commentator	Position	Comment	Committee Response
			<p>new forms. Create or revise written internal procedures.</p> <p><input type="checkbox"/> <i>Would six months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Probably.</p> <p><input type="checkbox"/> <i>How well would this proposal work in courts of different sizes?</i> Unknown.</p> <p>1) Make the titles of the two forms match.</p> <p>2) The term for "conviction" in juvenile court is "true finding". Our court does not normally use the term "sentence" in juvenile court.</p> <p>3) PC 1170.21 seems to make relief from a prior true finding automatic, without the need for a request to the court. These forms are needed to seek relief when a person is still on probation. It appears that item 4 on the request and item 2 on the order are not necessary.</p>	<p>No response required.</p> <p>No response required.</p> <p>The committee agrees that the titles of the forms should match and will revise form JV-743 to match form JV-742.</p> <p>The committee agrees that the term “conviction” should not be used and will replace it with the term “charge.”</p> <p>This point is well taken; it is true that relief is automatic when the applicant is no longer on probation. However, the committee believes it is prudent to leave the forms as they are. While the relief is not contingent on filing the forms, their use allows the courts to ensure that the relief has been provided.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SP18-23

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			<p>4) There should be a place on the order to state the new maximum term of confinement.</p> <p>5) As stated in the proposal, PC 647f charges are extremely rare in juvenile court. These forms could be helpful, but courts probably will not see many of these requests.</p> <p style="text-align: center;"><u>Form JV-742</u></p> <p>Title: Per PC § 1170.21, a conviction (in juvenile court, an adjudication) is “vacated”; a charge is “dismissed”; and an arrest is “deemed to have never occurred.” PC § 1170.22(h) uses “adjudications” and “dispositions” for juvenile delinquency. Nothing in the proposed form addresses a request to dismiss charges, so our court suggests deleting “DISMISS.” Our court also suggests changing the title and center footer (especially the term</p>	<p>The committee declines to include a place to state the maximum confinement time. In the rare instance where the person has additional open charges, the court can use a separate order form for that purpose.</p> <p>No response required.</p> <p>The committee will modify the title as indicated below. As to dismissal, forms JV-742 and JV-743 do address that issue but the committee is aware of this commenter’s position that dismissal is automatic if applicant is no longer on probation. The committee, however, believes it is necessary to leave the dismissal language on the forms because there may be cases where an applicant is on probation solely for a 647f offense and thus needs to petition for recall of</p>

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			<p>“RESENTENCE,” which is inappropriate for juvenile delinquency) to:</p> <p style="text-align: center;">REQUEST TO VACATE ADJUDICATION AND/OR RECALL DISPOSITIONAL ORDER FOR PENAL CODE SECTION 647f OFFENSE</p> <p>Page 1, left footer: Replace “Rev.” with “New.”</p> <p>First bullet point: Suggested edit.</p> <p>Use this form if you went to court and were found to have committed a Penal Code section 647f offense when you were under the age of 18 and you want to be resentenced or <u>request a new dispositional order</u> <u>and</u> have the charge <u>or adjudication</u> taken off your record. ...</p> <p>Second bullet point: Suggest deleting “you can.”</p>	<p>the disposition and dismissal of the 647f charge.</p> <p>The title will be modified as follows: REQUEST TO VACATE DISPOSITION AND DISMISS PENAL CODE SECTION 647F ADJUDICATION</p> <p>The forms will be revised accordingly.</p> <p>The committee appreciates this comment but declines to accept it, since these forms are intended to use language that is easy to understand and the term “adjudication” is a complicated legal term.</p> <p>The form will be revised accordingly.</p>

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			<p>If this form asks for information that you do not have, you can contact your attorney. If you don't have an attorney ...</p> <p>Instruction D: Suggest deleting “also” and “(a new sentence).”</p> <p>If you are on probation now for the ... offense, also check item number 3 to ask the judge to make new dispositional orders (a new sentence) and take the charge off your record.</p> <p>Instruction E: Suggest changing “gets” to “is.”</p> <p>After the charge gets is taken off your record, it can't be used against you later.</p> <p>Instruction F: Suggest changing “sentenced you” to “made your</p>	<p>The committee will delete “also” but, after consideration, the committee has decided not to delete “a new sentence” because it clarifies what “disposition” refers to.</p> <p>The form will be revised accordingly.</p> <p>Instruction F will be revised to say, “Your case may be heard by the judge who put you on probation...”</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>dispositional orders” and inserting a comma before “or the court”</p> <p>Your case may be heard by the judge who originally sentenced you made your dispositional orders, or the court will have a different judge hear your request.</p> <p><i>Caveat: This instruction might be considered misleading because it does not inform the petitioner of his or her right to have the request heard by the judge who made the original dispositional orders.</i></p> <p><i>Query – Shouldn’t there be some explanation of the consequences of checking item number 7 (i.e., waiving the right)? Perhaps add: “If you check the box in item number 7, you are giving up your right to have your request by the judge who originally made your dispositional orders.”</i></p> <p><i>Also, because F deals with item 7, I suggest moving F to the bottom of the list of instructions and re-lettering the next two instructions (change G to F [item 5]; change</i></p>	<p>The committee agrees that including this language in the instructions would be helpful to applicants using this form.</p> <p>The form will be modified as recommended.</p>

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			<p>H to G [item 6]; change F to H).</p> <p>Instruction G: Suggested change.</p> <p>You can check item number 5 if you do not want to come to court if there is a hearing.</p> <p><u>If there is a hearing and you do not want to come to court, check item number 5.</u></p> <p>Page 2, Item 3: Delete “(RESENTENCING),” insert “item” for consistency, and change terminology as indicated.</p> <p>REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING)</p> <p>I am currently subject to a</p>	<p>The committee declines this modification, as it could be read to suggest that there may already be a hearing scheduled when the form is completed.</p> <p>The committee declines to delete “resentencing,” as it clarifies a complicated legal term.</p> <p>The committee agrees to modify the language as follows: I am currently subject to a dispositional order (on probation) for the Penal Code section 647f offense in item number 2. I request that the dispositional order be recalled and relief</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>dispositional order (on probation) for the Penal Code section 647f offense in item number 2. I request that the dispositional order be recalled and relief be granted in accordance with Penal Code Sections 1170.21 and 1170.22 so that I will be resentenced and my conviction adjudication will be dismissed and vacated and the dispositional order will be recalled.</p> <p>Page 2, Item 4: Change “FOR DISMISSAL” to “TO VACATE ADJUDICATION,” insert “item” for consistency, and edit as indicated.</p> <p>REQUEST FOR DISMISSAL TO VACATE ADJUDICATION</p> <p>I am no longer a ward of the court (and I have completed probation) for the Penal Code section 647f offense in item number 2. I request that the court dismiss and vacate the conviction adjudication (take the charge off my record) because it is invalid under Penal Code sections</p>	<p>be granted in accordance with Penal Code Sections 1170.21 and 1170.22 so that I will get a new disposition and the charge will be dismissed.</p> <p>The committee will revise the form so that the title of this item reads: “REQUEST TO DISMISS ADJUDICATION AND VACATE DISPOSITION.”</p> <p>The committee agrees to modify the language as follows: I request that the court dismiss the 647f charge and vacate the related disposition because it is invalid under Penal Code sections 1170.21 and 1170.22.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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Juvenile Law: Decriminalization of PC 647f (adopt forms JV-742 and JV-743)

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	Commentator	Position	Comment	Committee Response
			<p>1170.21 and 1170.22.</p> <p>Page 2, Item 7, Title: Delete “SENTENCING.”</p> <p>WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE</p> <p>Page 2, Item 7: Change “waive” to “give up,” change “sentenced me” to “ordered my disposition,” and insert “, even.”</p> <p>I waive give up the right to have the judge who originally sentenced me ordered my disposition hear my request. I understand that, even if I don't waive give up this right, I will not have the hearing in front of the original judge if he or she is unavailable.</p> <p><i>Alternative version:</i></p>	<p>The committee agrees to modify the language as follows: WAIVER OF HEARING BY JUDGE WHO ORDERED MY DISPOSITION</p> <p>The committee agrees to modify the language as follows: “I give up my right to have my request heard by the judge who ordered my disposition. I understand that even if I don’t give up this right, I will not have the hearing in front of the original judge if she or she is unavailable.”</p> <p>The language has been modified, as set forth above.</p>

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			<p>I give up the right to have my request heard by the judge who originally ordered my disposition. I understand that, even if I don't give up this right, the original judge will not hear my request if he or she is unavailable.</p> <p style="text-align: center;"><u>Form JV-743</u></p> <p>Title: Change "TO REDUCE JUVENILE" to "FOR RELIEF RELATED TO." If it is deemed necessary to have "JUVENILE" in the title, move it to the end so that it does not look like an adjective modifying "PENAL CODE SECTION 647f OFFENSE."</p> <p style="text-align: center;">ORDER AFTER REQUEST TO REDUCE JUVENILE FOR RELIEF RELATED TO PENAL CODE SECTION 647f OFFENSE -- JUVENILE</p>	<p>The committee agrees the title should be modified as follows: ORDER AFTER REQUEST TO VACATE DISPOSITION AND DISMISS PENAL CODE SECTION 647F ADJUDICATION</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>First sentence: For consistency, change “petition/application” to “request” and insert “and orders” before “as follows.”</p> <p>From the petition/application request filed in this matter, the records of the court, and any other evidence presented in this matter, the court finds and orders as follows:</p> <p>Item 1:</p> <p>VACATED ADJUDICATION AND NEW DISPOSITION AND DISMISSAL</p> <p>The applicant is eligible for the requested relief. The petition is GRANTED. The court recalls its disposition for the designated offense and makes the following additional orders:</p> <p>The adjudication for the following Penal Code section 647f offense is vacated and dismissed as legally invalid (<i>indicate date of petition</i>):</p>	<p>The committee agrees with these suggestions and will revise the form accordingly.</p> <p>The committee declines to change the title associated with item number one; however, the text of that item will be revised to state that “The request is granted. The court vacates the disposition related to the designated charge and makes the following additional orders: (a) The following Penal Code section 647f adjudication is dismissed as legally invalid (<i>indicate date of petition</i>): (b) Wardship and delinquency jurisdiction is terminated.”</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>Wardship and delinquency jurisdiction for this offense is terminated.</p> <p>Delinquency jurisdiction remains in effect. All prior orders remain in full force and effect. The court vacates only the following condition number(s) _____ of the terms and conditions of probation: _____</p> <p><i>Note: Probation conditions on dispositional orders might not be numbered, depending on local practice. If they are numbered, the court clerk can simply specify the number(s) on the blank lines.</i></p> <p>Item 2:</p>	<p>The committee agrees with this suggestion and will revise the form to state “The court vacates the following terms and conditions of probation (specify):”</p> <p>No response necessary.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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			<p>DISMISSAL OF VACATED ADJUDICATION AFTER COMPLETED PROBATION</p> <p>The applicant is eligible for the requested relief. The request is GRANTED. The court hereby vacates and dismisses the adjudication <u>on (date):</u> [redacted] for a violation of Penal Code section 647f as legally invalid.</p> <p>Add Item 3:</p> <p>RELIEF DENIED</p> <p>The applicant is NOT eligible for the requested relief. The request is DENIED.</p> <p>OR</p> <p>OTHER: [redacted]</p>	<p>The committee agrees to revise the title of item 2 as follows: VACATE COMPLETED PROBATION AND DISMISS ADJUDICATION</p> <p>The committee agrees to revise the second sentence of item 2 as follows: “The court hereby dismisses the adjudication for a violation of Penal Code section 647f as legally invalid and vacates the associated disposition.”</p> <p>The committee agrees that it is prudent to include a checkbox that allows the court to deny the requested relief if the applicant is ineligible. Form JV-743 will be revised to include a new item that provides that option.</p>

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	Commentator	Position	Comment	Committee Response

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