



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 15, 2016

Title	Agenda Item Type
Juvenile Dependency Petition § 300(b) Allegations for Commercially Sexually Exploited Children (CSEC)	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms JV-101(A) and JV-121	July 1, 2016
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	March 25, 2016
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Chris Cleary, (415) 865-8792 christine.cleary@jud.ca.gov

Executive Summary

The Family and Juvenile Law Advisory Committee recommends revising two forms, form JV-121, *Failure to Protect*, and form JV-101(A), *Additional Children Attachment* to implement Senate Bill 855 [Stats. 2014, ch 29]. Senate Bill 855 added section 300(b)(2) to the Welfare and Institutions Code, to facilitate bringing Commercially Sexually Exploited Children (CSEC) into the juvenile dependency system.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise, effective July 1, 2016, form JV-121, *Failure to Protect*, to comply with new legislation (Sen. Bill 855) adding section 300(b)(2) to the Welfare and Institutions Code, to facilitate bringing Commercially Sexually Exploited Children (CSEC) into the juvenile dependency system; and also recommends that the Judicial Council approve technical changes responding to the new section 300(b)(2) to form JV-101(A), *Additional Children Attachment*, which was inadvertently left out of the technical change cycle approved by the Judicial Council on October 27, 2015.

Copies of the proposed revised forms are attached at pages 4-5.

Previous Council Action

The committee already submitted and the Judicial Council approved the petitions JV-100 and JV-110, effective January 1, 2016, for technical changes to bring them into compliance with Welf. & Instit. § 300(b)(2). Form JV-121 is more substantive; therefore it is being revised separately in this cycle.

Rationale for Recommendation

This form amendment is urgently needed to conform to a recent change in the law. In 2014, SB 855 established the new California Commercially Sexually Exploited Children (CSEC) Program within the California Department of Social Services (CDSS) to support prevention, intervention, services, and training to more effectively address CSEC in this state. The legislation also amended Welfare and Institutions Code section 300 to include section 300(b)(2), which specifically acknowledges that CSEC can come into the system through the juvenile dependency portal, recognizing CSEC as victims rather than perpetrators. This proposal would amend form JV-121, which currently includes the allegations corresponding to section 300(b)(1), to provide also the basic statutory allegations from the new section 300(b)(2), which reads: “The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.” Additionally, this proposal would make technical changes to form JV-101(A), adding separate check boxes for sections (b)(1) and (b)(2), as was approved by the Judicial Council on October 27, 2015, for petitions JV-100 and JV-110.

Comments, Alternatives Considered, and Policy Implications

The Child Welfare Services/Case Management System, pending final revision of the form, temporarily added a box to JV-121 under the section 300(b)(1) allegations allowing an allegation for general neglect “as a result of the failure or inability of the parent or guardian to protect the child from commercial sexual exploitation.” The committee considered adding this addition to the form for Judicial Council approval, but concluded that the two sections needed to be separately set forth to adequately cover their separate allegations, including the allegations that constitute commercial sexual exploitation.

There were five comments submitted in response to the Invitation to Comment. One of those agrees with the CWS/CMS approach of adding one more box to the current form that contains the CSEC allegations, without regard to the separate section 300(a) and (b) subdivisions. That commenter found the committee’s proposal “cumbersome and unnecessarily complicated.” The other four comments agreed with the committee’s proposal without modification. The committee considered the proposal again in light of the one response, but continues to recommend separating the allegations on form JV-121 to correspond to the new 300 (a) and (b) subdivisions.

A chart of comments and committee responses is attached at page 6.

Implementation Requirements, Costs, and Operational Impacts

Implementation of SB 855 will require some changes in court procedures and training, though much of that is happening through the CDSS CSEC Program planning and training with the counties that are participating in the CSEC Program. The form changes would also require some reproduction costs.

Attachments and Links

1. Forms JV-121 and JV-101(A), at pages 4–5
2. Comment chart, at page 6
3. Link A: Senate Bill 855, www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0851-0900/sb_855_bill_20140620_chaptered.pdf (Please note that this is a budget trailer bill that has many, many items in it. The relevant pages for the CSEC material are on pages 114–115 and 139–141.)
4. Link B: Welfare and Institutions Code section 300(b)(2), www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=300-304.7

CHILD'S NAME:	CASE NUMBER:
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**FAILURE TO PROTECT
§ 300(b)**

§ 300(b)(1)

The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness

- as a result of the failure or inability of his or her parent or legal guardian to supervise or protect the child adequately.
- as a result of the willful or negligent failure of the child's parent or legal guardian to supervise or protect the child adequately from the conduct of the custodian with whom the child has been left.
- by the willful or negligent failure of the parent or legal guardian to provide the child with adequate food, clothing, shelter, or medical treatment.
- by the inability of the parent or legal guardian to provide regular care for the child due to the parent's or legal guardian's mental illness, developmental disability, or substance abuse.

§ 300(b)(2)

The child's parent or guardian has failed to, or was unable to, protect the child, and the child

- has been or is being sexually trafficked, as described in section 236.1 of the Penal Code.
- has been or is receiving food or shelter in exchange for, or who is paid to perform sexual acts described in section 236.1 or 11165.1 of the Penal Code.

(State supporting facts concisely and number them 1, 2, 3, etc.):

CHILD'S NAME:	CASE NUMBER:
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4. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code <i>(check applicable boxes; see attachment 3a for concise statements of facts):</i> <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b)(1) <input checked="" type="checkbox"/> (b)(2) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. <i>(If not the same, provide different information below.)</i>				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other <i>(state name, address, and relationship to child)</i> : <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent <i>(name)</i> : <input type="checkbox"/> parent <i>(name)</i> : <input type="checkbox"/> guardian <i>(name)</i> : <input type="checkbox"/> Indian custodian <i>(name)</i> : <input type="checkbox"/> other <i>(state name, address, and relationship to child)</i> :	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention <i>(address)</i> : <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

5. a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code <i>(check applicable boxes; see attachment 3a for concise statements of facts):</i> <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b)(1) <input checked="" type="checkbox"/> (b)(2) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)				
b. Child's name:		c. Age:	d. Date of birth:	e. Sex:
<input type="checkbox"/> Information is the same as that given for the child in item 1. <i>(If not the same, provide different information below.)</i>				
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged			
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father <i>(check all that apply)</i> : <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other <i>(state name, address, and relationship to child)</i> : <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.			
j. Prior to intervention, child resided with <input type="checkbox"/> parent <i>(name)</i> : <input type="checkbox"/> parent <i>(name)</i> : <input type="checkbox"/> guardian <i>(name)</i> : <input type="checkbox"/> Indian custodian <i>(name)</i> : <input type="checkbox"/> other <i>(state name, address, and relationship to child)</i> :	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention <i>(address)</i> : <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other			

6. I have asked about Indian ancestry for each child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A).

W16-08**Juvenile Dependency Petition § 300(b) Allegations for Commercially Sexually Exploited Children (CSEC)**

(Amend forms JV-101(A) and JV-121)

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

	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association By Todd G. Friedland, President	AM	The proposal is cumbersome and unnecessarily complicated. The alternative considered, but not adopted, of adding one additional check box to the form is sufficient. The OCBA would suggest that the additional check box read: “as the child has received food or shelter in exchange for, or has been paid to perform, sexual acts described in § 236.1 or § 11165.1 of the Penal Code and whose parent or guardian failed to, or was unable to, protect the child.”	The committee discussed this option at the outset, but recommends instead separating the allegations to clarify the different code subdivisions ((a) & (b)) that the allegations reference.
2.	State Bar of California Standing Committee on the Delivery of Legal Services (SCDLS)	A	Agree with proposal in its entirety. The proposal amends form(s) JV-101(A) and JV-121 so that they comply with SB 855.	No response required.
3.	State Bar of California Executive Committee of the Family Law Section	A	The Executive Committee of the Family Law Section of the State Bar supports this proposal.	No response required.
4.	Superior Court of Los Angeles County	A	Agree with proposed changes.	No response required.
5.	Superior Court of San Diego County	A	Agree with proposed changes.	No response required.