



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: May 18–19, 2017

Title

Criminal Procedure and Juvenile Law:
Judicial Council Forms Under Proposition 64

Agenda Item Type

Action Required

Effective Date

July 1, 2017

Rules, Forms, Standards, or Statutes Affected

Approve forms CR-400, CR-401, and CR-402; JV-744A, JV-745, and JV-746; revise form JV-744; revoke forms CR-187 and JV-745; renumber form CR-188 as CR-403.

Date of Report

April 12, 2017

Recommended by

Criminal Law Advisory Committee
Hon. Tricia Ann Bigelow, Chair

Contact

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Family and Juvenile Law Advisory
Committee

Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

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Executive Summary

The Criminal Law Advisory Committee recommends that the Judicial Council revoke form CR-187, and approve forms CR-400, CR-401, and CR-402, and renumber CR-188 as CR-403. The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revoke form JV-745; approve forms JV-744A, JV-745, and JV-746; and revise form JV-744. These forms are designed to implement the “Control, Regulate and Tax Adult Use of Marijuana Act” (“Proposition 64”). The Judicial Council approved the current forms effective January 23, 2017, while they circulated for public comment. In response to public comments received, the committees modified the current forms, which required renumbering and/or retitling in four

instances; and, developed four additional forms. These eight proposed forms are intended to modify and replace the four forms that were approved in January 2017.

Recommendation

The Criminal Law Advisory Committee and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective July 1, 2017:

1. Revoke *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-187) and approve *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-400), which changes the current form CR-187 as follows:
 - Deletes the integrated proof of service;
 - Deletes the prosecuting agency response; and
 - Simplifies by reducing the amount of information required of the petitioner/applicant.
2. Approve *Proof of Service for Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-401) for use by petitioners/applicants.
3. Approve *Prosecuting Agency Response to Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-402) for use by the prosecuting agency to respond to petitioner's requested relief or to request a contested hearing.
4. Renumber *Order After Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-188) as CR-403, since the creation of the proof of service and the prosecuting agency response changed the sequencing of the forms.
5. Revise *Request to Reduce Juvenile Marijuana Offense (Prop. 64–Health and Safety Code, § 11361.8(m))* (form JV-744) to:
 - Delete the prosecuting agency response;
 - Include a request for interpreter services;
 - Provide direction on when to use the attachment form, JV-744A; and
 - Include information about where to go to learn more about record sealing.
6. Approve *Attachment to Request to Reduce Juvenile Marijuana Offense (Health and Safety Code, § 11361.8)* (form JV-744A) for applicants to list additional juvenile marijuana offenses related to the same petition number.
7. Approve *Prosecuting Agency Response to Request to Reduce Juvenile Marijuana Offense (Health and Safety Code, § 11361.8)* (form JV-745) to provide the prosecuting agency with a simple and efficient way to provide and file a response to the request for a new disposition or redesignation.
8. Revoke *Juvenile Order After Request to Reduce Marijuana Offense* (form JV-745) and approve *Order After Request to Reduce Juvenile Marijuana Offense (Prop. 64–Health and*

Safety Code, § 11361.8(m)) (form JV-746), which changes what is currently form JV-745 as follows:

- Renumbers the form as JV-746, since the creation of the prosecuting agency response changed the sequencing of the forms;
- Includes a checkbox allowing the court to reseal previously sealed files; and
- Deletes the checkboxes in the header.

The new and revised forms are attached at pages 11–30.

Previous Council Action

Health and Safety Code section 11361.8, enacted as part of Proposition 64, specifically directed the Judicial Council to “promulgate and make available all necessary forms to enable the filing of the petitions and applications” provided for in the initiative. Because the new resentencing and redesignation provisions went into effect on November 9, 2016, the day after the state election, courts had an immediate need for forms to implement the procedures. In response, the Criminal Law Advisory Committee and the Family and Juvenile Law Advisory Committee developed two model adult forms and two model juvenile forms that were made publically available on the California Courts website from November 9, 2016, until January 23, 2017. Effective January 23, 2017, the Judicial Council approved four forms as optional Judicial Council forms, while they were also being circulated for public comment, to ensure that they were available on an expedited basis.

Rationale for Recommendation

Background

On November 8, 2016, the people of California voted to enact the “Control, Regulate and Tax Adult Use of Marijuana Act” (“Proposition 64”). Proposition 64 legalized and regulated the use of marijuana and redesignated specified marijuana-related offenses. New Health and Safety Code section 11361.8 enacted, as part of this proposition, also established a process through which people previously convicted of the following designated marijuana-related offenses may obtain a reduced conviction or sentence if they would have received the benefits of the law had it been in effect when the crime was committed:

- Possession under Health and Safety Code section 11357;
- Cultivation under Health and Safety Code section 11358;
- Possession for sale under Health and Safety Code section 11359; and
- Unlawful transport under Health and Safety Code section 11360.

(See Health & Saf. Code, § 11361.8(a), (e).)

This code section expressly confirms that this relief applies equally to criminal and juvenile delinquency adjudications and dispositions. (See Health & Saf. Code, § 11361.8(m).)

The adult resentencing and dismissal provisions of Prop. 64 apply to persons currently serving a sentence for an eligible offense and to those who have completed their sentence. (See Health & Saf. Code, § 11361.8(b), (f).) The request must be made before the trial court that entered the judgment of conviction in the case. (See Health & Saf. Code, § 11361.8(a), (e).) For persons currently serving a sentence, if the petition satisfies the criteria for resentencing or dismissal of sentence, the court must grant the petition unless the court determines that granting it would pose an unreasonable risk of danger to public safety. (Health & Saf. Code, § 11361.8(b).) If the court grants a request to redesignate an eligible offense as a misdemeanor or an infraction, the conviction is to be treated as a misdemeanor or an infraction for all purposes. (See Health & Saf. Code, § 11361.8(h).)

In adult cases, Prop. 64 also provides for the sealing of records of convictions dismissed under the proposition by persons who have completed their sentence. The court must “*seal the conviction as legally invalid as now established under [Proposition 64].*” (Health & Saf. Code, § 11361.8(f).)

Proposition 64 does not entirely decriminalize marijuana offenses for minors, but rather provides that all of the offenses are infractions that can be sanctioned solely with court-ordered drug education or counseling and community service. Because juvenile offenses will remain as infractions, application of the adult resentencing and redesignation provisions will not require dismissal or sealing of juvenile records.

Criminal

Current Forms

As noted above, effective January 23, 2017, the Judicial Council approved forms to implement proposition 64 while these forms were also being circulated for public comment. There are two forms currently in effect for adults that facilitate the following:

CR-187. The *Petition/Application* (form CR-187) for persons currently serving eligible sentences and persons who have completed eligible sentences allows the petitioner/applicant to:

- Identify one or multiple eligible convictions;
- Identify his or her age at the time of the conduct that gave rise to the conviction;
- Identify the nature of the substance that resulted in the conviction;
- Identify the quantity of the substance that resulted in the conviction;
- Request the desired relief;
- Waive the statutory requirement under section 11361.8 that the matter be heard by the original sentencing judge; and
- Waive his or her appearance.

It also requires the petitioner/applicant to serve the prosecuting agency with a copy of the petition/application, which contains an area for that agency to object to the request and/or to request a hearing on the matter. Proof of service on the prosecuting agency is not expressly

required by Prop. 64. However, it does require that the court grant the petition unless “the party opposing the petition” proves by clear and convincing evidence that the petitioner/applicant does not satisfy the criteria of section 11361.8(a), (f). Therefore, the proposition requires that the prosecuting agency receive the petition/application before the court may grant the requested relief. The integrated proof of service was intended to help petitioners/applicants, many of whom may be self-represented, document service of the petition/application on the prosecuting agency and to provide the court with information as to whether the prosecuting agency has been made aware of the petition/application.

CR-188. The *Order After Petition/Application* (form CR-188) allows the court to:

- Grant the relief;
- Record the date of the hearing, if held;
- Deny the relief and to state the reasons for the denial;
- Provide notice that any redesignation to a misdemeanor or an infraction shall thereafter be a misdemeanor or an infraction for all purposes;
- Relieve the petitioner from any applicable registration requirements for narcotics offenders; and
- Seal the record of conviction as applicable.

Recommended Forms

The committees recommend that the council modify the current adult forms in the following ways:

In order to accommodate the addition of a separate Proof of Service for Petition/Application and Prosecuting Agency’s Response, the adult forms have been assigned numbers that differ from those approved during circulation for public comment. Consequently, the current forms CR-187 must be revoked and CR-188 must be renumbered. The recommended numbering is as follows:

- *Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-400);
- *Proof of Service for Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-401);
- *Prosecuting Agency Response to Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-402); and
- *Order After Petition/Application (Health and Safety Code, § 11361.8) Adult Crime(s)* (form CR-403).

CR-400. *Petition/Application* (form CR-400). For the reasons set forth in the Comments section of this report, the committee recommends:

- Revoking the form currently numbered CR-187 and assigning it a new number to accommodate the creation of a new proof of service and prosecuting agency response;
- Deleting the integrated proof of service;
- Deleting the prosecuting agency response; and
- Simplifying the form by reducing the amount of information required by the petitioner/applicant.

Instruction boxes have also been added to the Petition/Application and the Prosecuting Agency Response to alert form users to proof of service forms.

CR-401. *Proof of Service for Petition/Application* (form CR-401). For the reasons set forth in the Comments section of this report, the committee recommends creating a new form for the proof of service.

CR-402. *Prosecuting Agency Response* (form CR-402). For the reasons set forth in the Comments section of this report, the committee recommends creating a new form for the prosecuting agency response, with an integrated proof of service.

CR-403. *Order After Petition/Application* (form CR-403). For the reasons set forth in the Comments section of this report, the committee recommends renumbering CR-188 to accommodate the creation of a new prosecuting agency response form:

Juvenile

Current Forms

There are currently two juvenile forms in effect to implement Proposition 64 that do the following:

JV-744. *The Request to Reduce Juvenile Marijuana Offense* (form JV-744) allows juvenile marijuana offenders to petition the court to obtain a new disposition, or to have their offenses redesignated as infractions under section 11361.8. This form was modeled on the current criminal *Petition/Application* (form CR-187). However, because the users of the juvenile form will primarily be either minors or young adults, the Family and Juvenile Law Advisory Committee sought to use plainer language and to streamline the form to require only the information that the offender is likely to be able to obtain. As a result, form JV-744 does not require the offender to specify the amount of marijuana involved in the offense, but only the dates and the Health and Safety Code violation for which the child was adjudicated. It was also structured so that a separate form must be completed for each eligible offense a person is requesting be redesignated under Prop. 64. It includes one additional item not on the adult petition/application to allow the petitioner to request a hearing. This item was added because section 11361.8 provides that a hearing is required if requested by the petitioner. In addition, consistent with juvenile court practice in other contexts, the form is designed to be routed by the court clerk to the probation department and prosecuting attorney after filing, rather than requiring the petitioner to serve the request on the prosecuting agency.

JV-745. *The Juvenile Order After Request to Reduce Marijuana Offense* (form JV-745) provides courts with the ability to make the relevant orders on the requests for relief under section 11361.8 for juvenile offenses. The form is consistent with the proposed criminal *Order After Petition/Application* (form CR-403) and adds content specifically relevant to juvenile offenders,

including an option for the court to order drug education or counseling and community service when ordering a new disposition for the offense as those sanctions are allowed by Prop. 64 for offenses committed by minors.

Recommended Forms

The committees recommend that the council modify the current juvenile forms in the following ways:

JV-744. Request to Reduce Juvenile Marijuana Offense (form JV-744). For the reasons set forth in the Comments section of this report, the committee recommends:

- Deleting the prosecuting agency response;
- Including a request for interpreter services;
- Providing direction on when to use the attachment form, JV-744A; and
- Including information about where to go to learn more about record sealing.

JV-744A. Attachment to Request to Reduce Juvenile Marijuana Offense (form JV-744A). For the reasons set forth in the Comments section of this report, the committee recommends creating a new form to be used as an attachment to the JV-744 when the applicant seeks reduction of multiple offenses.

JV-745. Prosecuting Agency Response (form JV-745). For the reasons set forth in the Comments section of this report, the committee recommends creating a new form for the prosecuting agency response, with an integrated proof of service.

JV-746. Order After Request to Reduce Juvenile Marijuana Offense (form JV-746). For the reasons set forth in the Comments section of this report, the committee recommends:

- Revoking the form currently numbered JV-745 and assigning it a new number to accommodate the creation of the new prosecuting agency response form;
- Including a checkbox allowing the court to reseal previously sealed files; and
- Deleting the checkboxes in the header.

Comments, Alternatives Considered, and Policy Implications

External comments

This proposal circulated for comment from December 16, 2016, to February 14, 2017. Twelve comments were received; all either agreed with the proposal if modified or did not indicate a position but proposed modifications. A chart with the full text of the comments received and each committee's responses is attached at pages 31–87. The main substantive comments and the committees' responses are discussed below.

Prosecutor Response

As noted above, both the current adult and juvenile forms include the prosecuting agency response on the petition/application and request forms. The Invitation to Comment specifically solicited on whether the prosecuting agency response should be included on the

petition/application and request forms, or on a separate form. The commentators were evenly split on this question. Nearly all of the commentators in favor of having a separate response form argued that a separate form is easier for the clerks to process and makes for a cleaner record. Those who were opposed to this either did not provide a reason or anticipated that the response would be needed in the majority of cases.

After consideration, both committees agreed that the prosecuting agency response should be removed from the petition/application and request forms and included on a separate form. Both the proposed adult and juvenile prosecuting agency response forms contain an integrated proof of service to ensure that prosecuting agencies serve their responses on petitioners/applicants, many of whom may be self-represented.

Multiple Offenses/Convictions

The second specific question asked in the invitation to comment was whether multiple offenses/convictions should be filed separately or included on a single petition/application or request form. For the juvenile forms, commentators addressed whether multiple offenses should be listed on the application or included via an attachment. The current juvenile request form requires separate requests for each new disposition or redesignation. The current adult petition/application form allows petitioners/applicants to request relief for multiple offenses/convictions bearing the same case number on a single form. The commentators were split on whether separate requests should be required for every offense, regardless of the case number. Those that advocated for separate petition/application or request forms noted that separate forms are easier to process and make for a cleaner record. Those against separate petition/application or request forms argued that it would be easier for the user if the forms included multiple offenses/convictions because a single form is less confusing and more streamlined.

After considering the benefit to records processing gained by requiring separate requests versus the burden on the applicant, the committees decided that both the adult and juvenile forms should enable petitioners to file one request for offenses related to a single case number. The recommended forms will require offenses bearing different case numbers and requests seeking different forms of relief to be filed on separate request forms.

As to the use of an attachment to the juvenile form, the responses from the commentators were again evenly split: those advocating against the attachment cited potential record processing problems and improperly venued requests. Those in support of the attachment argued that it would ease the request process for the form user. The committees ultimately decided to recommend that in juvenile cases, the additional offenses will be listed on an attachment form, JV-744A.

Simplified Language

The invitation to comment also specifically sought input on whether the forms should be written in plain language. The juvenile forms were written in a simpler language than the more formally

written criminal forms because the users of the juvenile forms will primarily be minors or young adults. Most comments on this issue supported using less formal, more simplified language. Some commentators noted concerns about legal accuracy and plain language forms. In response, the Criminal Law Advisory Committee simplified the petition/application form and the Family and Juvenile Law Advisory Committee made minor language changes to ensure accuracy.

Proof of Service

As noted above, the current juvenile request form requires the court to serve the request form on the prosecuting agency, while the current adult petition/application requires the petitioner/applicant to serve the prosecuting agency. The invitation to comment sought input on whether a proof of service form for the request or the petition/application is necessary. Those who provided comment on the juvenile form agreed that it was appropriate for the court to serve the request form; none of the comments recommended a proof of service for the juvenile form. The comments on the adult petition/application were mixed between supporting retaining the integrated proof of service and supporting separating it from the petition/application.

The committees considered whether a proof of service form was necessary. The Family and Juvenile Law Advisory Committee decided that a proof of service form was unnecessary, as the juvenile request for relief will be served by the court when it is filed by a self-represented litigant. The instruction of form JV-744 has been revised to clarify that when the form is filed by an attorney, service must be effectuated by the attorney. The Criminal Law Advisory Committee decided it would be best to retain a proof of service but separate it from the petition/application to reduce confusion and allow courts to more efficiently process the requests by eliminating filing of a second petition/application to demonstrate that the petitioner has served the prosecuting agency.

Effective Date

In addition to the specific questions posed in the Invitation to Comment, the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subgroup (JRS) commented on the immediate need for the revised forms. The JRS recommended that these forms become effective one month after the Judicial Council meeting. The committees agree and recommend that the new and revised criminal and juvenile law forms become effective July 1, 2017 rather than the originally proposed September 1, 2017.

Alternatives

The Family and Juvenile Law Advisory Committee also considered whether to add language on the *Order After Request to Reduce Juvenile Marijuana Offense* (form JV-746) regarding destruction of court records but determined it was unnecessary since the records are destroyed as a matter of law.

Implementation Requirements, Costs, and Operational Impacts

The requirements of section 11361.8 will impose significant workload burdens on the court to process and act upon the requests for relief by those who are eligible for retroactive relief under

Prop. 64. The proposed forms are intended to mitigate those burdens by providing courts uniform forms to streamline the process. It is anticipated that Prop. 64 will result in far fewer petitions than the courts have been required to consider under Proposition 47.

Attachments and Links

1. Judicial Council forms CR-187, CR-188, CR-400, CR-401, CR-402, CR-403, JV-744, JV-744A, JV-745 (Revoked), JV-745 (New), and JV-746, at pages 11–30.
2. Chart of comments, at pages 31–87.

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
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	CASE NUMBER: _____
PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) <input type="checkbox"/> FOR RESENTENCING OR DISMISSAL <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(b)) (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

INSTRUCTIONS

- Before filing this form, petitioner/applicant should consult local court rules and court staff to determine if a formal hearing on the petition/application will be scheduled.
- If the petitioner is currently serving a sentence for a qualified crime, please fill out sections 1 and 2(a).
- If the applicant has completed the sentence for a qualified crime, please fill out sections 1 and 2(b).
- Complete sections 3 and 4 as necessary.
- Upon the filing of the petition/application, the petitioner/applicant is required to immediately serve the office of the prosecuting agency (the district attorney or city attorney, as appropriate) with a copy of the petition/application. It may be served personally or by mail; the signed Proof of Service, attached to this form, must be filed with the court.

1. CONVICTION INFORMATION

CONVICTION A:

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section ☐ 11357 ☐ 11358 ☐ 11359 ☐ 11360 which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:

☐ 18 to 20 years of age; ☐ 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:

☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;

☐ Other: _____

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:

☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis;
☐ not more than 6 marijuana plants.

CONVICTION B:

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the following Health and Safety Code section ☐ 11357 ☐ 11358 ☐ 11359 ☐ 11360 which has been reclassified under Proposition 64.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:

☐ 18 to 20 years of age; ☐ 21 years old or older. Date of birth: _____

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:

☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;

☐ Other: _____

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:

☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis;
☐ not more than 6 marijuana plants.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

2. REQUEST FOR RELIEFa. ☐ **RESENTENCING/DISMISSAL**

Petitioner is currently serving the sentence for the crime noted above, and requests the sentence be recalled and that he/she be resentenced or the charge be dismissed as required by law.

☐ Other:

b. ☐ **REDESIGNATION/DISMISSAL/SEALING**

Applicant has completed the sentence for the crime noted above, and requests the sentence be recalled and the conviction be redesignated or dismissed. If the conviction is dismissed, applicant requests the court's record of conviction be sealed.

☐ Other:

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

☐ Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE

☐ Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without his/her appearance.

Dated:

Signature of petitioner/applicant

PROSECUTING AGENCY RESPONSE

☐ The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.

☐ The prosecuting agency requests a hearing and objects to the granting of the petition/application because:

☐ Petitioner/applicant was not convicted of an eligible offense.

☐ Other:

☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.

☐ The prosecuting agency does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated:

Signature of prosecuting attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		FOR COURT USE ONLY
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE:	ZIP CODE:
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (name):		
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:		
PROOF OF SERVICE Check Method of Service (only one): <input type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail		CASE NUMBER:
		FOR COURT USE ONLY Date: Time: Department:

1. Person serving: I am over the age of 18 and not a party to this action.
- a. Name:
- b. Residence or Business Address:
- c. Telephone:
2. I served a copy of the Petition/Application for Resentencing or Reduction to Infraction on the person or persons listed below as follows:
- a. Name of person served:
- b. Address where served:
- c. Date Served:
- c. Time Served: ☐ AM ☐ PM
3. The documents were served by the following means (*specify*):
- a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
- b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (city and state):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date:

Signature of Declarant

(Printed Name of Declarant)

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
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
ORDER AFTER PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) <input type="checkbox"/> FOR RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY Date: Time: Department:

From the petition/application filed in this matter, the records of the court, and any other evidence presented in this matter, the court finds as follows:

1. RESENTENCING GRANTED

- ☐ The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:
- ☐ The following crime(s) is/are resentenced as ☐ misdemeanor(s) ☐ infraction(s):
 (indicate crime(s))
- ☐ The following sentence is imposed for the commission of the crime(s):
- ☐ The petitioner is given credit for time served of (days):
- ☐ Petitioner is required to complete a period of supervision of months/days on
- ☐ parole ☐ postrelease community supervision ☐ mandatory supervision (Pen. Code, § 1170(h))
☐ formal probation ☐ informal probation
- ☐ The court releases the petitioner from any form of post conviction supervision.
- ☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
- ☐ Other:

2. REDESIGNATION GRANTED

- ☐ The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:
- ☐ The following crime(s) is/are redesignated as ☐ misdemeanor(s) ☐ infraction(s):
 (indicate crime(s))
- ☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
 (specify):
- ☐ Other:

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

3. RESENTENCING/REDESIGNATION DENIED

- ☐ The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is **DENIED** as to crime(s): for the following reasons:
- ☐ The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
- ☐ The petitioner's/applicant's age at the time the crime(s) was/were committed makes petitioner/applicant ineligible for the requested relief.
- ☐ The nature of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- ☐ The quantity of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- ☐ Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
- ☐ Other:

4. MISDEMEANOR/INFRACTION FOR ALL PURPOSES

Any misdemeanor resentenced as an infraction as a result of this order shall thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction shall be a misdemeanor or infraction for all purposes.

5. REGISTRATION

- ☐ The petitioner/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code, §11590.

6. SEALING OF CONVICTION

- ☐ The court's record of conviction is ordered sealed. No access to the information shall be permitted without court order.

IT IS SO ORDERED.

Dated:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not Approved For Use by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	CASE NUMBER: _____
PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) <input type="checkbox"/> RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

1. CONVICTION INFORMATION (Check all that apply)

- ☐ 11357 - Possession of Marijuana
- ☐ 11358 - Cultivation of Marijuana
- ☐ 11359 - Possession of Marijuana for Sale
- ☐ 11360 - Transportation, Distribution, or Importation of Marijuana
- ☐ 11362.1 - Personal Use of Marijuana

2. REQUEST (check all that apply)

- ☐ PETITION: Petitioner is currently serving a sentence in the above-captioned case and now requests the court recall/resentence/dismiss the conviction.
- ☐ APPLICATION: Applicant has completed his/her sentence in the above captioned case and now requests the court dismiss & seal/redesignate the conviction.

3. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

- ☐ Petitioner/applicant waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

4. WAIVER OF APPEARANCE

- ☐ Petitioner/applicant understands there is a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without his/her appearance.

Dated: _____



SIGNATURE OF PETITIONER/APPLICANT

Form CR-401 (Proof of Service for Petition/application adult crimes) may be used to provide proof of service of this petition/application.

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 For Use by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	CASE NUMBER: _____
PROOF OF SERVICE FOR PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S) Method of Service (only one): <input type="checkbox"/> Personal Service <input type="checkbox"/> Mail	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

1. Person serving: I am over the age of 18 and not a party to this action.
 - a. Name: _____
 - b. Residence or Business Address: _____
 - c. Telephone: _____

2. I served a copy of the Petition/Application for Resentencing or Reduction on the person or persons listed below as follows:
 - a. Name of person served: _____
 - b. Address where served: _____
 - c. Date Served: _____
 - c. Time Served: _____ AM _____ PM

3. The documents were served by the following means (*specify*):
 - a. ☐ **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. ☐ **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
 - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)

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 For Use by the Judicial Council
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	
PROSECUTING AGENCY RESPONSE TO PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)	CASE NUMBER: _____
	FOR COURT USE ONLY Date: _____ Time: _____ Department: _____

PROSECUTING AGENCY RESPONSE

- ☐ The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.
- ☐ The prosecuting agency requests a hearing and objects to the granting of the petition/application because:
- ☐ Petitioner/applicant was not convicted of an eligible offense.
- ☐ Other: _____

- ☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
- ☐ The prosecuting agency does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated: _____



SIGNATURE OF PROSECUTING ATTORNEY _____

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:

CASE NUMBER:

**PROOF OF SERVICE
FOR PROSECUTING AGENCY RESPONSE
Method of Service (only one):**

☐ **Personal Service**☐ **Mail**1. Person serving: I am over the age of 18 and not a party to this action.

a. Name:

b. Residence or Business Address:

c. Telephone:

2. I served a copy of the Petition/Application for Resentencing or Reduction on the person or persons listed below as follows:

a. Name of person served:

b. Address where served:

c. Date Served:

c. Time Served: ☐ AM ☐ PM3. The documents were served by the following means (*specify*):

a. ☐ **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.

b. ☐ **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):

(1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date:



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)

1. RESENTENCING GRANTED

- ☐ The petitioner is eligible for the requested relief. The petition is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:

☐ The following crime(s) is/are resentenced as ☐ misdemeanor(s) ☐ infraction(s):
(specify crime(s)):

☐ The following sentence is imposed for the commission of the crime(s):

☐ The petitioner is given credit for time served of (days):

☐ Petitioner is required to complete a period of supervision of months/days on
☐ parole ☐ postrelease community supervision ☐ mandatory supervision (Pen. Code, section 1170(h))
☐ formal probation ☐ informal probation

☐ The court releases the petitioner from any form of postconviction supervision.

☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:

☐ Other:

2. REDESIGNATION GRANTED

- ☐ The applicant is eligible for the requested relief. The application is **GRANTED**. The court hereby recalls the sentence imposed on the designated crime(s) and enters the following additional orders:

☐ The following crime(s) is/are redesignated as ☐ misdemeanor(s) ☐ infraction(s):
(specify crime(s)):

☐ The court **DISMISSES** the following crime(s) for the reason that the conviction is legally invalid:
(specify):

☐ Other:

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:

CASE NUMBER:

3. RESENTENCING/REDESIGNATION DENIED

- ☐ The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is **DENIED** as to crime(s): for the following reasons:
- ☐ The petitioner/applicant was convicted of an offense that is not eligible for the requested relief.
- ☐ The petitioner's/applicant's age at the time the crime(s) was/were committed makes petitioner/applicant ineligible for the requested relief.
- ☐ The nature of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- ☐ The quantity of the marijuana substance constituting the basis of the crime(s) makes petitioner/applicant ineligible for the requested relief.
- ☐ Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that resentencing of petitioner would pose an unreasonable risk of danger to public safety.
- ☐ Other:

4. MISDEMEANOR/INFRACTION FOR ALL PURPOSES

Any misdemeanor resentenced as an infraction as a result of this order shall thereafter be an infraction for all purposes. Any felony conviction resentenced as a result of this order as a misdemeanor or infraction shall be a misdemeanor or infraction for all purposes.

5. REGISTRATION

- ☐ The petitioner/applicant is relieved from the requirement to register as a narcotics offender under Health and Safety Code section 11590.

6. SEALING OF CONVICTION

- ☐ The court's record of conviction is ordered sealed. No access to the information shall be permitted without court order.

IT IS SO ORDERED.

Dated:

JUDICIAL OFFICER

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 REDUCE JUVENILE MARIJUANA OFFENSE	CASE NUMBER:
	Date: Time: Department:

INSTRUCTIONS

- Use this form if you went to court and were found to have committed a marijuana offense when you were under the age of 18 and you want to reduce the charge on your record. You need to use a different form if you were 18 or older at the time of the offense.
- If you have more than one juvenile marijuana offense:
 - A. Use a separate JV-744 form for each marijuana offense that has a different case number or if you are requesting a different remedy in item 3 or 4.
 - B. Use form JV-744A to list marijuana offenses that have the same case number even if the court decided you violated a marijuana law on a different day. You need to list the date the court made its decision.
- If this form asks for information that you do not have, you can contact your attorney. If you don't have an attorney, the public defender's office or the court in the 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/she must serve the form.
- How to fill out the form without an attorney:
 - A. Put your name and contact information in the box at the top of the form and in number 1 below.
 - B. 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.
 - C. Fill out number 2 about the marijuana offense.
 - D. If you are on probation now for the marijuana offense, also check number 3 to ask the judge to make new dispositional orders (a new sentence) based on the new law. The new orders cannot be worse than your original sentence.
 - E. If you have completed probation for the marijuana offense, check number 4 to ask the judge to change your offense to an infraction. So, if it was a misdemeanor or a felony, it will now be treated like a traffic ticket.
 - F. Your case may be heard by the judge who originally sentenced you or the court will have a different judge hear your request.
 - G. You will not have a hearing (talk to a judge) unless you ask for one. You can check one of the boxes in number 5 if you want the court to set a hearing. If you will need an interpreter, ask for one in number 6.
 - H. You can check number 5(c) if you do not want to come to court if there is a hearing.

For more information about Proposition 64 and filling out this form, go to www.courts.ca.gov/prop64.htm.

For information about record sealing, go to www.courts.ca.gov/28120.htm.

1. MY INFORMATION

My name is:

I was born on (date):

CASE NAME:	CASE NUMBER:
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2. OFFENSE INFORMATION

On (date): _____ I was found to come within the jurisdiction of the court under Welfare and Institutions Code section 602 for a violation of Health and Safety Code section (check all that apply):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

☐ I have attached form JV-744A because I have more than one marijuana offense with this case number.

3. REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING)

☐ I am currently subject to a dispositional order (on probation) for the marijuana offense in number 2. I request that the dispositional order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(b) so that I will be resentenced.

4. REQUEST FOR REDESIGNATION

☐ I am no longer a ward of the court (completed probation) for the marijuana-related offense in number 2. I request the court's dispositional order be recalled and in accordance with Health and Safety Code section 11361.8(f). The offense will be redesignated as an infraction (treated like a traffic ticket).

5. REQUEST FOR HEARING/WAIVER OF APPEARANCE

- a. ☐ I request a hearing if the prosecuting agency opposes my request. I understand that if I check this box, the court will hold a hearing only if the prosecution agency disagrees with my request.
- b. ☐ I request that the court hold a hearing even if my request is not opposed by the prosecution agency.
- c. ☐ 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 ORIGINAL SENTENCING JUDGE

☐ I waive the right to have the judge who originally sentenced me hear my request. I understand that if I don't waive this right, I will not have the hearing in front of the original judge if he/she is unavailable.

Date: _____



SIGNATURE OF PETITIONER

INSTRUCTIONS - AFTER YOU COMPLETE THIS FORM

File this form with the court. The court will send a copy to the probation department and to the prosecuting agency.

SHORT TITLE	CASE NUMBER:
-------------	--------------

ATTACHMENT TO REQUEST TO REDUCE JUVENILE MARIJUANA OFFENSE

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

On (date): _____, the court found that I violated Welf. and Inst. Code section (*check all that apply*):

- ☐ 11357—Possession of Marijuana
☐ 11358—Cultivation of Marijuana
☐ 11359—Possession of Marijuana for Sale
☐ 11360—Transportation, Distribution, or Importation of Marijuana

Proposition 64 has reclassified this offense as an infraction when committed by a person under the age of 18. At the time of the offense, I was under the age of 18.

1. NEW DISPOSITION GRANTED

- ☐ The petitioner is eligible for the requested relief. The petition is GRANTED. The court hereby recalls its disposition for the designated offense and makes the following additional orders:

☐ The following offense is redesignated as an infraction (indicate offense): _____

☐ Petitioner is required to complete:

☐ _____ hours of drug education and counseling and/or

☐ _____ hours of community service, within _____ days from the date of this order.

☐ Wardship and delinquency jurisdiction for this offense is terminated.

☐ Other: _____

☐ The petitioner is eligible for the requested relief. The application is **GRANTED**. The court hereby redesignates the following offense for which the child was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 as an infraction (indicate offense): _____.

☐ The petitioner is ineligible for the requested relief. The request for a new dispositional order/redesignation is **DENIED** for the following reasons:

☐ The offense for which petitioner was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.

☐ Although petitioner is eligible for relief, for reasons set forth on the record, the court finds that modifying the petitioner's disposition would pose an unreasonable risk of danger to public safety.

☐ Other:

CASE NAME:	CASE NUMBER:
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4. INFRACTION FOR ALL PURPOSES

Any offense redesignated as an infraction as a result of this order shall thereafter be an infraction for all purposes.

IT IS SO ORDERED.

Dated: _____

 JUDICIAL OFFICER

Revoke

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:	
PROSECUTING AGENCY RESPONSE TO REQUEST TO REDUCE JUVENILE MARIJUANA OFFENSE	CASE NUMBER:
	Date: Time: Department:

TO BE FILLED OUT BY THE PROSECUTING AGENCY

PROSECUTING AGENCY RESPONSE

- ☐ The prosecuting agency has no objection to this petition. Applicant is entitled to the requested relief without a hearing.
- ☐ The prosecuting agency does not object to the applicant's eligibility for relief, but requests a hearing on the issue of a new dispositional order.
- ☐ The prosecuting agency requests a hearing and objects to the granting of the petition because:
- ☐ The prosecuting agency does not agree that the petition should be granted because the offense for which applicant was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.
- ☐ Applicant is eligible for relief, but relief should be denied because applicant presents an unreasonable risk of danger to public safety if he/she is resentenced.
- ☐ Other : _____

Date: _____

SIGNATURE OF PROSECUTING AGENCY

CASE NAME:	CASE NUMBER:
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1. Person serving: I am over the age of 18 and not a party to this action.
 - a. Name:
 - b. Residence or Business Address:
 - c. Telephone:
2. I served a copy of the *Prosecuting Agency Response to Request to Reduce Juvenile Marijuana Offense* on the person or persons listed below as follows:
 - a. Name of person served:
 - b. Address where served:
 - c. Date Served:
 - c. Time Served: ☐ AM ☐ PM
3. The documents were served by the following means (*specify*):
 - a. ☐ **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
 - b. ☐ **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
 - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date:



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)

CASE NAME:	CASE NUMBER:
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4. INFRACTION FOR ALL PURPOSES

Any offense redesignated as an infraction as a result of this order shall thereafter be an infraction for all purposes.

5. PREVIOUSLY SEALED RECORD

☐ The record was previously sealed pursuant to Welfare and Institutions Code section 781 or 786 and it is ordered resealed.

IT IS SO ORDERED.

Dated: _____

 JUDICIAL OFFICER

W17-01**Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64** (Approve forms CR-187, CR-188, JV-744, and JV-745.)

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

	Commentator	Position	Comment	Committee Response
1.	Albert De La Isla Principal Analyst, Adult Division Superior Court of California, County of Orange	AM	<p>1. Form should require a separate petition / application for each conviction / offense.</p> <p>2. Prosecuting Agency response should be on a separate form, not on the CR-187.</p> <p>3. Footer of CR-187 should be the same as the title and show as ADULT CRIME(S) instead of ADULT CRIMES.</p> <p>4. The section where the petitioner / applicant "further states the nature of the substance which resulted in the conviction was:" may be difficult for a defendant to fill out as they may not have that</p>	<p>1. The Criminal Law Advisory Committee (hereafter CLAC) declines to require a separate petition/application form for each conviction/offense. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>2. CLAC agrees that the prosecuting agency's response should be separated from the petition/application, as a separate response form will streamline the filing process and eliminate the need for duplicate copies of the form in the court file. The prosecuting agency's response now contains an integrated proof of service, intended to ensure that the prosecution serves the petitioners/applicants, many of whom will be self-represented, with its response.</p> <p>3. CLAC agrees with the suggestion to align the titles with the footers.</p> <p>4. CLAC agrees that the "nature of the substance which resulted in the conviction" is not a required field and has removed it from the form.</p>

W17-01

Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 (Approve forms CR-187, CR-188, JV-744, and JV-745.)

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

		<p>information. Is this a required field in order to file the petition? Our recommendation is that it is not required.</p> <p>5. On the waiver of hearing by original sentencing judge, if the box is not checked it gives the impression that the court has to send it to the sentencing judge. We understand that the Presiding Judge can still designate any judge to rule on it. So, is that box necessary?</p> <p>6. Proof of /service form should not have a "For Court Use Only" section as the court is not filing it nor would we be filling out that calendaring information. Also, the footer should reference proof of service.</p> <p>7. CR 188, same comment about the footer, should be CRIME(S) not CRIMES to be consistent with the title of the form. Also remove the "For Court Use</p>	<p>5. CLAC declines to delete the box that permits the applicant/petitioner to waive the hearing by the original sentencing judge. Health & Safety Code section 11361.8 subdivisions (a) and (e) provide the petitioner/applicant with the right to file "before the trial court that entered the judgment of conviction." Subdivision (i) allows a presiding judge to designate another judge to make the ruling only when the judge that originally sentenced the petitioner is not available. In all other cases, the petitioner/applicant must waive his/her right for review by the original sentencing judge before a different judge is authorized to rule on the petition/application. The waiver box provides courts with the flexibility to assign different judges on these cases, expediting the relief.</p> <p>6. The Proof of Service for Petition/Application is now a separate form. The committee declines to delete the "court use only" portion of the proof of service because it is not an order.</p> <p>7. CLAC agrees with the suggestion to align the titles with the footers.</p>
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W17-01

Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 (Approve forms CR-187, CR-188, JV-744, and JV-745.)

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

			Only" section of the form, this is an order so we would not be filling out hearing information.	
2.	Drug Policy Alliance Joy Haviland Staff Attorney	N/I	<p>Dear Members of the Judicial Council: These comments are submitted on behalf of the Drug Policy Alliance, in response to the Invitation to Comment on Judicial Council forms CR-187, CR-188, JV-744 and JV-745 (after circulation renumbered as JV-746).</p> <p>The Drug Policy Alliance (“DPA”) is a national advocacy group committed to ending the war on drugs and to building a policy response to drugs that is grounded in science, compassion, health and human rights. Through our political advocacy arm and 501(c)(4) organization, Drug Policy Action, we served as co-chairs and co-sponsors of the official Proposition 64 (“Prop. 64”) campaign. We are thus particularly interested in making sure any form is adopted in accordance with the new law.</p> <p>General Comments</p> <p>We appreciate the efforts of Judicial Council to develop a uniform petition and application that can be used throughout the state by petitioners seeking to reduce or dismiss a prior marijuana conviction. Our primary concerns with the form are twofold: the usability of the form and a burden being placed upon petitioners/applicants, rather than the district attorney.</p> <p>As described below in response to question (1), the form as drafted is not very user friendly for an unrepresented applicant. If an applicant does not</p>	<p>Usability Comments</p> <p>“[Q]uantitiy of the substance which resulted in the conviction”</p>

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		<p>know the quantity of substance which resulted in the conviction, it is unclear how they should fill out the application.</p> <p>It is also unclear what an applicant is waiving when they fill out the form. A broader information sheet or list of instructions might be helpful in clarifying for unrepresented (or even for represented) applicants how they should answer these questions.</p> <p>Secondly, as raised by the Los Angeles County Public Defender, CR-187 mistakenly places the burden on petitioners/applicants to establish the type of reduction for which they qualify. The form requires a petitioner/applicant to state the type of marijuana and the quantity of the marijuana involved in the conviction. The answer given will not affect whether a petitioner/applicant gets resentenced, but how they get resentenced. For example, prior to Prop. 64, cultivation of any marijuana was a felony offense. It is now legal to cultivate up to six plants inside a private residence and cultivation of more than six plants will result in a misdemeanor offense. No matter how someone answers this question they will get resentenced, but the answer here will affect whether the result will be a dismissal or reduction to a misdemeanor.</p>	<p>CLAC agrees that the “nature of the substance which resulted in the conviction” is not a required field and has removed it from the form.</p> <p>Unclear Waiver CLAC agrees to clarify which rights of the defendant each waiver applies to and will separate the waiver from the signature line more clearly.</p> <p>Information Sheet CLAC declines to develop an information sheet because the form has been simplified.</p> <p>Burden Comment Please see CLAC’s response to the Los Angeles Public Defender and Alternate Public Defender’s joint comment.</p> <p>Los Angeles District Attorney’s Form Please see CLAC’s response to the Los Angeles Public Defender and Alternate Public Defender’s joint comment.</p>
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		<p>In other words, the form places the burden on the petitioner/applicant to establish how they should get resentenced yet the statute places the burden on the party opposing the petition (i.e. the District Attorney). The resentencing statute of Prop. 64 was clearly modeled on the resentencing statute of Prop. 47. It’s reasonable to conclude that the inclusion of this language clarifying the burden of proof for eligibility at a particular threshold was intentional to circumvent the problems of proof that have arisen in establishing eligibility in Prop. 47. To ignore the “clear and convincing evidence” language renders it superfluous. The form should be revised to reflect that the burden on establishing <i>how</i> or the type of result a petition/application receives is on the District Attorney.</p> <p>Request for Specific Comments</p> <p>(1) Should form CR-187 be in more plain language?</p> <p>Yes. It is likely that pro se petitioner/applicants will use this form, especially in the case of an applicant who has already completed his or her sentence. Certain terms and directions are confusing in the form. For example, in Box 1 under conviction information, it’s unclear what an applicant is to do if they do not know the quantity or weight of the amount of marijuana. Should they leave the box blank? Should they guess? If they guess wrong, will they be penalized in any matter? This also leads to confusion in Box 2 in terms of the type of relief an unrepresented applicant should request. If a person</p>	<p>Request for Specific Comments</p> <p>(1) CLAC agrees that form CR-187 should be simplified and has simplified the language.</p>
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		<p>does not remember the amount of marijuana, or if the person does not know how that offense changed under Prop. 64 (i.e. to a misdemeanor, infraction or dismissal), how will they know which type of relief to request? While developing a universal form for the provisions of Prop. 64 may be a bit unwieldy, this form does not clarify any of that information for the unrepresented applicant.</p> <p>(2) Should JV-744 be modified to be like form CR-187 in terms of requesting information on the amount of marijuana involved in the offense?</p> <p>No. The form should be left as is because it is simple and clear. As you know, the resentencing aspects for juveniles are somewhat more straightforward. No matter the amount of marijuana involved in the offense, or the level of offense originally charged, a juvenile may only be resentenced to an infraction. Unlike for adults, the only variation is the amount of community service or drug education a youth may need to complete. A judge can determine this amount upon resentencing rather than require the youth to state that amount.</p> <p>(3) Should form CR-187 retain an integrated proof of service?</p> <p>Yes. This is very helpful and useful for unrepresented petitioners and applicants.</p> <p>Thank you again for the opportunity to provide feedback to Judicial Council on these forms. Please</p>	<p>(2) No response required.</p> <p>(3) CLAC declines the suggestion that form CR-187 retain an integrated proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has</p>
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			let us know if we can provide any further explanation or suggestions. Sincerely, /s/ Joy Haviland Joy F. Haviland Staff Attorney jhaviland@drugpolicy.org (510) 679-2317	separated the Proof of Service for the Petition/Application.
3.	Donna Groman Judge, Superior Court of Los Angeles County		<p>Bullet one: Yes, the proposal appropriately addresses the stated purpose</p> <p>Bullet 2: I suggest leaving the adult form as it is. I have a number of comments about the language on the JV application. Please see attached. The danger in using simplified language is that it may not accurately convey the law.</p> <p>No need to address quantity in juvenile cases. There is no distinction drawn by Prop 64 as to quantity when the offense is committed by a juvenile. Otherwise, the language in paragraph 2 should be adequate as modified [see JV form].</p> <p>The court should be required to serve when the form is filed by the youth. If filed by an attorney, the attorney should serve the parties.</p> <p>In paragraph 2 of the JV application, form can be</p>	<p>No response required.</p> <p>Fam/Juv agrees with the proposed revisions and has modified the form.</p> <p>Fam/Juv agrees that it is not necessary to require that quantity be included on the juvenile form. Fam/Juv agrees with the proposed revisions and has modified the form.</p> <p>Fam/Juv agrees that the court should serve the form when it is filed by the youth, as the benefit of proper service outweighs the burden of rescheduling the hearing if the form is not properly served. Fam/Juv further agrees that if the form is filed by an attorney, the attorney should effectuate service.</p> <p>Fam/Juv agrees with the proposed revisions</p>

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			<p>modified so it states “(check all that apply).”</p> <p>I have no comments with respect to the second paragraph and 4 bullets regarding cost savings and work load.</p> <p>*[This commentator lists numerous modifications to be made for consistency and clarity; those suggestions have been incorporated in the forms.]</p>	<p>and has modified the form.</p> <p>No response required.</p> <p>Fam/Juv agrees with the proposed revisions and has modified the form.</p>
4.	<p>Los Angeles Public Defender’s Office By: Ron Brown</p> <p>Los Angeles Alternate Public Defender By: Janice Fukai</p>		<p>Dear Criminal Law Advisory Committee,</p> <p>We write in response to your invitation to comment on the above-referenced proposed forms relating to Proposition 64. As you know, Proposition 64 authorized defendants previously convicted of marijuana related offenses to seek reduction or dismissal of those prior convictions. With this in mind, this Committee has requested comment on the proposed forms for use by petitioners seeking reduction, dismissal or resentencing of their prior convictions under Proposition 64.</p> <p>Although we have no issue with the majority of the proposed forms, we believe proposed form CR-187 is substantially flawed. Specifically, CR-187 mistakenly places the burden on petitioners to establish facts establishing their eligibility for relief, when it is actually the court’s obligation to presume that the petitioner qualifies for relief, absent evidence to the contrary. As discussed below, because the proposed form effectively reverses the burden of proof (and therefore misstates the law),</p>	<p>Burden Comment / Los Angeles District Attorney’s Form</p> <p>CLAC recognizes the benefit of a simplified form and has simplified the Petition/Application.</p>

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			<p>we do not intend to use this form as currently written, and it is our strong position that this form should not be adopted. Instead, we would urge this Committee to adopt a form consistent with that written by the Los Angeles District Attorney’s Office, included as Attachment A below.</p> <p>As you know, Proposition 64 permits a defendant to seek a education/dismissal/resentencing of various marijuana-related offenses. Proposition 64 also establishes that a petitioner is entitled to reduction/dismissal/resentencing provided that the petitioner’s former conduct is now lawful or would qualify for less serious charges and/or sentences under the newly re-written marijuana laws.</p> <p>Proposition 64 specifically states that when considering an application for reduction/dismissal/resentencing, a court is required to presume that the petitioner qualifies for relief. The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act. (Health and Safety Code § 11361.8(f). Emphasis added.)</p> <p>Consequently, unless a prosecutor establishes that the petitioner does not qualify for relief because, for</p>	
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		<p>example, the petitioner possessed more marijuana than is legally permitted under the new statutes, the court must grant the petition.</p> <p>With that in mind, form CR-187 appears to erroneously place the burden on the petitioner to assert facts that establish that his or her conduct would have been lawful (or qualify as a lesser offense) under the new statutes. Specifically, CR-187 asks the petitioner to assert facts establishing his right to a reduction, including the petitioner’s age at the time of the offense, the amount of marijuana the petitioner possessed, and the type of marijuana. As discussed above, because a Prop. 64 petitioner is not required to make any such assertions and it is the court’s obligation to presume that the petitioner qualifies for relief absent evidence to the contrary, CR-187, as written, does not accurately reflect the petitioner’s obligations under the law.</p> <p>Given the problem with this form, we would respectfully suggest that the Committee consider replacing CR-187 with a form similar to that developed by the Los Angeles District Attorney’s Office, included below as Attachment A.</p> <p>Conclusion</p> <p>For the reasons stated above, the current version of CR-187 improperly asks petitioners to make factual assertions regarding their eligibility for relief, when they are not required to do so under the law. For these reasons, we respectfully urge that the form be modified.</p>	
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		<p style="text-align: center;">ATTACHMENT A</p> <p style="text-align: center;"><u>CAPTION GOES HERE</u></p> <p style="text-align: center;"><u>PETITION FOR</u> <u>RECALL/RESENTENCE/DISMISSAL PER HS</u> <u>11368.1(a)</u> <u>APPLICATION FOR RE-</u> <u>DESIGNATION/DISMISSAL PER HS</u> <u>11368.1(e)</u></p> <p>On _____, petitioner/applicant was convicted in the above-captioned case for the following violations:</p> <p style="padding-left: 40px;"> <input type="checkbox"/> 11357 <input type="checkbox"/> 11358 <input type="checkbox"/> 11359 <input type="checkbox"/> 11360 <input type="checkbox"/> Other (per HS 11362.1) </p> <p><input type="checkbox"/> APPLICATION: Applicant has completed his/her sentence in the above captioned case and now requests the court dismiss & seal/re-designate (circle all that apply) the conviction.</p> <p><input type="checkbox"/> PETITION: Petitioner is currently serving a sentence in the above captioned case in _____ (custodial facility) and now requests the court recall/re-sentence/dismiss (circle all that apply) the conviction.</p> <p>Date: _____ Signature: _____ (defendant or attorney for</p>	
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		<p>defendant)</p> <hr/> <p><input type="checkbox"/> Prosecution objects to the petition/application. Matter is scheduled for a hearing on _____ at _____ a.m./p.m. in Dept. _____. Clerk to give notice.</p> <p style="text-align: center;"><u>ORDER</u></p> <p><u>PETITION</u> COUNT(S): _____ Petition granted- Sentence recalled, resentenced as an infraction COUNT(S): _____ Petition granted- Sentence recalled, resentenced as a misdemeanor</p> <p>The court elects one of the three options: <input type="checkbox"/> Supervision for one year following the completion of petitioner/applicant’s time in custody OR <input type="checkbox"/> Whatever supervision time petitioner/applicant would have otherwise been subject to after release (whichever of the two is shorter) OR <input type="checkbox"/> Releases petitioner/applicant from supervision</p> <p>COUNT(S): _____ Petition granted- Sentence recalled and dismissed COUNT(S): _____ Petition denied- Petitioner does not satisfy the criteria</p>	
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			<p>COUNT(S): _____ Petition denied- Petitioner poses an unreasonable risk of danger to public safety</p> <p><u>APPLICATION</u></p> <p>COUNT(S): _____ Application granted- Conviction re-designated as an infraction</p> <p>COUNT(S): _____ Application granted- Conviction re-designated as a misdemeanor</p> <p>COUNT(S): _____ Application granted- Conviction dismissed and sealed</p> <p>COUNT(S): _____ Application denied- Applicant does not satisfy the criteria</p> <p>Date: _____ Signature: _____</p> <p>_____ (Judge)</p>	
5.	Orange County Bar Association By: Michael L. Baroni President	AM	<p>ATTACHMENT - W17-01 Request for Specific Comments</p> <ul style="list-style-type: none">Does the proposal appropriately address the stated purpose? Both proposed forms CR-187 (adult) and JV-744 (Juvenile) and the accompanying orders adequately and appropriately address the stated purpose.Should the criminal and juvenile forms should [sic] more closely parallel each other where	No response necessary.

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			<p>possible, including but not limited to:</p> <ul style="list-style-type: none">• Should form CR-187, the application/petition form for adults be in more plain language format like form JV-744 to make it easier for self-represented individuals to complete the form? Yes, the basic format of JV-744 is easier to understand and complete by a lay person.• Does section 2 of form JV-744 provide the court with sufficient information to take action on the request or should it be modified to be more like form CR-187 in terms of requesting information on the quantity of marijuana involved in the offense? Section 2 should be modified to request information on the quantity of marijuana involved but should be prefaced by the language, “If known”.• Is it preferable for the juvenile court to route filed JV-744 requests for relief to the other stakeholders (probation and the prosecuting agency), or, similar to CR-187, should juvenile petitioners be required to serve the petition on those entities? Due to the anticipated use of JV-744 by	<p>CLAC agrees that form CR-187 should be simplified and has simplified the language.</p> <p>Fam/Juv declines to include a request for the quantity involved as it is not required by the statute.</p> <p>Fam/Juv agrees that the court should serve form JV-744 when it is filed by a self-represented litigant. The instruction section of form JV-744 has been revised to clarify that if the form is filed by an attorney, that attorney is responsible for service.</p>
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			<p>minors or young adults, it is preferable for the court to route the filed form to the other stakeholders.</p> <ul style="list-style-type: none">• Should form CR-187 and form JV-744 be that same in terms of whether they allow for a request for relief for multiple eligible convictions/offenses on a single petition/application or require separate petitions/applications for each conviction/offense? Both forms should allow a request for relief for multiple convictions/offenses on a single petition/application.• Should there be an attachment form for additional cases? For convenience sake and in order to avoid confusion by the petitioner and the court, separate attachment forms for additional cases would be helpful and efficient.	<p>CLAC agrees that form CR-187 should allow multiple convictions/offenses on a single petition/application and has retained that aspect of the form. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>Like CLAC , Fam/Juv agrees that multiple offenses related to a single petition (in other words, each eligible offense is associated with the same petition number) may be filed on the same application. Unlike CLAC, the juvenile forms will utilize an attachment form to list multiple offenses. Separate petitions will be required for offenses related to different petition numbers or for offenses that are not eligible for the same relief.</p> <p>CLAC declines the request for separate attachment forms for additional cases on form CR-187. While a single form will apply to each case, petitioners/applicants may circle as many eligible convictions as apply to that case. This will allow courts efficiently</p>
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			<ul style="list-style-type: none">Should form CR-187 retain an integrated proof of service? If not, why? An integrated proof of service is already part of many CR forms. For both the lay person and counsel, such integration is efficient and convenient. The integration also assists the court clerk in verifying that the petition/application may be properly filed and/or calendared for hearing.Should forms CR-187 and JV-744 include the prosecuting agency response, or should the response be on a separate form? <p>Both forms should include the prosecuting agency response as it is anticipated that the majority of cases will not require a lengthy response. As with other court forms, the prosecuting agency is free to file an attachment to their response should additional explanation for an objection be necessary.</p>	<p>to process them by case number while also allowing the petitioner/applicant to consolidate multiple convictions on a single form. The committee determined that this will allow courts most efficiently to process these forms.</p> <p>CLAC declines the suggestion that form CR-187 retain an integrated proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>The committees agree that the prosecuting agency's response should be separated from CR-187 and JV-744, as a separate response form will streamline the filing process and eliminate the need for duplicate copies of the form in the court file. The prosecuting agency's response now contains an integrated proof of service, intended to ensure that the prosecution serves the petitioners/applicants, many of whom will be self-represented, with its response.</p>
6.	Pacific Juvenile Defender Center East Bay Community Law Center By: Kate Weisburd	N/I	*Comments on behalf of the Pacific Juvenile Defender Center....Because of PJDC's expertise in juvenile law, this letter is limited and addresses only	

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	Director & Clinical Instructor		<p>the proposed JV forms.</p> <p>Request for Specific Comments Does the proposal appropriately address the stated purpose? Yes. The juvenile forms further the purpose of Proposition 64. However, PJDC strongly recommends that the Advisory Committee consider creating and distributing an information sheet about the Proposition and what it means for youth. For example, neither the application/petition (JV-744) or the order mentions or addresses automatic Invitation to Comment on JV Forms for Prop 64 Comments of Pacific Juvenile Defender Center February 14, 2017 Page 2 expungement. An information sheet could provide applicants with critical information about when their records will be expunged, what that means for purposes of answering questions about their record and whether it is necessary to seek resentencing if their records have been expunged. Alternatively, under the “instructions” section of JV-744, consider adding a bullet point that references and briefly explains record expungement.</p> <p>The language on page 2 of 2 is, at times, not user friendly, especially when considering that the</p>	<p>Fam/Juv agrees that there should be a reference to sealing on one of the juvenile forms. However, Welfare and Institutions Code sections 781 and 786 provide the only process for sealing of juvenile records; Proposition 64 does not provide for sealing. Either the juvenile record will already be sealed pursuant to the automatic process set forth in Welfare and Institutions Code section 786 or it will be sealed because the child requested sealing under Welfare and Institutions Code section 781. In this situation, the court will have to unseal the record to reduce the marijuana offense to an infraction and then reseat the record. Consequently, Fam/Juv recommends including a checkbox on form JV-746 (circulated as JV-746) that reads “The record was previously sealed pursuant to Welfare and Institutions Code sections 781 or 786 and it is ordered re-sealed.” If the record is not sealed, it is likely that the subject of the record needs to apply for sealing under Welfare and Institutions Code section 781. Fam/Juv recommends including an instruction on form JV-744 that directs reader to the sealing page on the Judicial Council website.</p> <p>Fam/Juv recognizes the importance of</p>
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		<p>audience for this form includes young people. For example, consider rewording question #3 to read as follows: “I am currently on probation for a marijuana offense. I ask that the offense be reclassified as an infraction, pursuant to H & S Code section 11361.8(b)” Relatedly, #4 could read: “I am no longer on probation and my juvenile case is over for the marijuana offense listed in question #2. I request that the court orders be changed to reflect that the findings are now considered infractions.”</p> <p>Finally, questions 6 and 7 (on page 2 of JV-744) are confusing because youth may not know if they should request a hearing even if there is no opposition and whether they should waive their appearance at a hearing. In both the instructions section and in the questions themselves consider adding a sentence that encourages youth to consult with their attorney (or the public defender in their county) before requesting a hearing or waiving their appearance.</p> <p>Should the criminal and juvenile forms more closely parallel each other? Yes. The adult criminal application should more closely track the juvenile application. As detailed by the LA County Public Defender in their letter to this Advisory Committee, the adult petition improperly imposes a burden on the petitioner. Proposition 64 makes clear that the burden is on the prosecutor. The JV-744 however, does not impose a burden and is more streamlined than the adult version.</p>	<p>ensuring that the juvenile forms are accessible to the intended audience (juveniles). This concern must be balanced against the concern that simplifying the language too much will compromise the accuracy of the forms. For this reason, Fam/Juv declines to make the suggested change to the language</p> <p>The choice to waiver the hearing or request it despite the prosecuting agency’s position is included on the form because Health and Safety Code section 11361.8 specifically allows the applicant to request a hearing, even when the prosecuting agency agrees with the request. As this is a straightforward statement of the young person’s options, Fam/Juv does not believe it is necessary to suggest contacting an attorney.</p> <p>Burden Comment Please see CLAC’s response to the Los Angeles Public Defender and Alternate Public Defender’s joint comment.</p> <p>Los Angeles District Attorney’s Form Please see CLAC’s response to the Los Angeles Public Defender and Alternate Public Defender’s joint comment.</p> <p>Fam/Juv agrees that it is not necessary to</p>
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			<p>The JV-744 form should not be modified to require more information from the petitioner (such as the quantity of marijuana). This would constitute impermissible burden shifting, which we agree with the LA Public Defender, is inconsistent with the mandate of the proposition.</p> <p>Juvenile petitioners should not be required to serve the petition on the prosecutor or probation. The juvenile petitioner should file the petition with the court clerk's office and the clerk's office should be responsible for serving the prosecutor and probation.</p> <p>The JV-744 should be modified so that petitioners can use only one petition to ask for relief on all eligible findings. The form could be easily modified so that there is space for a petitioner to list all case numbers and all dates. This would help streamline the process and make it easier for youth to complete. Requiring separate JV-744 forms for each case makes it unnecessarily complicated, especially given the more limited abilities of youth applicants.</p> <p>We very much appreciate the opportunity to help to improve this form based on our experiences in the field. Please let us know if we can provide further explanations about any of the comments or suggestions in this document.</p>	<p>require that quantity be included on the juvenile form</p> <p>Fam/Juv agrees that the court should serve form JV-744 when it is filed by a self-represented litigant. The instruction section of form JV-744 has been revised to clarify that if the form is filed by an attorney, that attorney is responsible for service.</p> <p>Fam/Juv agrees that multiple offenses related to a single petition (in other words, each eligible offense is associated with the same petition number) may be filed on the same application. However, Fam/Juv has determined that offenses related to different petitions should be filed on separate applications, rather than be handled via attachments to one application</p>
7.	State Bar of California, Standing Comm. on the Delivery of Legal Services	A	W17-01 (Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64) <i>(Agree with proposal; suggestions provided to</i>	

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	<p>By: Sharon Ngim Program Dev. & Staff Liaison</p>	<p><i>improve the proposed forms)</i></p> <p>Specific Comments</p> <ul style="list-style-type: none">• <u>Does the proposal appropriately address the stated purpose?</u> <p>Yes.</p> <ul style="list-style-type: none">• <u>Should the criminal and juvenile forms more closely parallel each other where possible, including but not limited to:</u> <p><u>Should form CR-187, the application/petition form for adults be in more plain language format like form JV-744 to make it easier for self-represented individuals to complete the form?</u></p> <p>Yes, we recommend that CR-187 and JV-744 more closely parallel one another in order to improve self-represented litigants' access to the courts, and ease the burden of prosecuting agencies and the courts. Specifically, SCDLS believes proposed CR-187 would be improved by:</p> <p>a) applying a low-literacy format throughout the Petition/Application that more closely reads like JV-744;</p> <p>b) providing a short descriptor of each Health & Safety Code, as done in JV-744;</p>	<p>No response needed.</p> <p>CLAC: No response needed.</p> <p>Fam/Juv drafted the juvenile forms with the self-represented litigant in mind, using simplified language and including instructions to guide the users.</p> <p>a) CLAC agrees that form CR-187 should be simplified and has simplified the language.</p> <p>b) CLAC agrees that a short descriptor of each Health & Safety Code would improve the form and has incorporated that change.</p>
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			<p>c) omitting information that the individual is not likely to know or easily obtain and that can be easily obtained by the prosecuting agency (e.g., nature and quantity of the substance);</p> <p>d) rewriting section headings to make it easier to understand which sections to complete (e.g., 1. Conviction Information, A. Persons Currently Serving a Sentence: Resentencing/Dismissal, B. Persons Who Have Completed a Sentence: Redesignation/Dismissal/Sealing);</p> <p>e) omitting Section 3: Waiver of Hearing by Original Sentencing Judge and adding a sentence in the instructions stating that filing the petition/application automatically waives hearing by original sentencing judge [and similarly omitting Section 5 of JV-744];</p>	<p>c) CLAC agrees that the “nature of the substance which resulted in the conviction” is not a required field and has removed it from the form.</p> <p>d) CLAC agrees that form CR-187 should be simplified and has simplified the language.</p> <p>e) CLAC and Fam/Juv decline to delete the box that permits the applicant/petitioner to waive the hearing by the original sentencing judge. Health & Safety Code section 11361.8 subdivisions (a) and (e) provide the petitioner/applicant with the right to file “before the trial court that entered the judgment of conviction.” Subdivision (i) allows a presiding judge to designate another judge to make the ruling only when the judge that originally sentenced the petitioner is not available. In all other cases, the petitioner/applicant must waive his/her right for review by the original sentencing judge before a different judge is authorized to rule on the petition/application. The waiver box provides courts with the flexibility to assign different judges on these cases, expediting</p>
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			<p>f) adding a new “Court Hearing” section that merges the Court Hearing and Waiver of Personal Appearance boxes, and more closely mirrors JV-744 (e.g., individuals may check boxes to request a personal appearance regardless if prosecuting agency objects, request a hearing only when prosecuting agency objects, or waive a hearing with personal appearance;</p> <p>g) omitting “Other” under Request for Relief; and</p> <p>h) Integrating a one-sentence proof of service that reads, “I have served a copy of this Petition/Application on [name of Prosecuting Agency].”</p> <p>SCDLS proposes adding within the “Relief Requested” sections that convictions be specifically changed from Felony/Misdemeanor to Misdemeanor/Infraction. We recognize, however, that this may require that only one offense be listed on the form; therefore, this proposal only applies if the offenses are limited.</p>	<p>the relief.</p> <p>f) CLAC declines the suggestion to merge the hearing and appearance waivers because they are distinct rights.</p> <p>g) CLAC has omitted the Request for Relief section in the body of form CR-187 to simplify the pleading requirements.</p> <p>h) CLAC declines the suggestion that form CR-187 integrate a one-sentence proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>CLAC declines the suggestion to add to the “Relief Requested” sections because the committee has removed that section from the forms to simplify the pleading requirements.</p>
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		<p><u>Does section 2 of form JV-744 provide the court with sufficient information to take action on the request or should it be modified to be more like form CR-187 in terms of requesting information on the quantity of marijuana involved in the offense?</u></p> <p>Yes, we believe that the court will have sufficient information with Section 2 of JV-744, as the probation/prosecuting agency will access the entire docket when taking action on the request. We agree that juveniles, especially self-represented individuals, will be unable to easily obtain quantity information.</p> <p><u>Is it preferable for the juvenile court to route filed JV-744 requests for relief to the other stakeholders (probation and the prosecuting agency), or, similar to CR-187, should juvenile petitioners be required to serve the petition on those entities?</u></p> <p>SCDLS recommends that the juvenile court route the requests for relief to the other stakeholders, in order to ensure that all juvenile petitioners are able to access the benefits of Proposition 64's relief.</p> <p><u>Should form CR-187 and form JV-744 be that same in terms of whether they allow for a request for relief for multiple eligible convictions/offenses on a single petition/application or require separate petitions/applications for each conviction/offense?</u></p> <p>We propose that the court allow for multiple offenses specific to one case number on a</p>	<p>Fam/Juv agrees that form JV-744 is sufficient in this regard and does not need to be revised to include information regarding the quantity of marijuana involved.</p> <p>Fam/Juv agrees that the court should serve the form when it is filed by the youth, as the benefit of proper service outweighs the burden of rescheduling the hearing if the form is not properly served.</p> <p>CLAC agrees with the suggestion to allow multiple convictions/offenses on a single petition. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while</p>
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		<p>petition/application, so long as it remains clear which request for relief applies to which offense.</p> <ul style="list-style-type: none">• <u>Should there be an attachment form for additional cases?</u> <p>No, while this may ease some burden for applicants/petitioners, it will likely lead to prosecuting agencies and courts receiving applications/petitions for convictions outside their jurisdiction.</p> <ul style="list-style-type: none">• <u>Should form CR-187 retain an integrated proof of service? If not, why?</u> <p>Yes, SCDLS believes CR-187 should be amended to include a one-sentence checkbox that states, “I have served a copy of this Petition/Application on [name of Prosecuting Agency].”</p> <ul style="list-style-type: none">• <u>Should forms CR-187 and JV-744 include the prosecuting agency response, or should the response be on a separate form?</u> <p>We believe the forms should include the prosecuting agency response.</p>	<p>allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>Like CLAC, Fam/Juv agrees that multiple offenses related to a single petition (in other words, each eligible offense is associated with the same petition number) may be filed on the same application. Unlike CLAC, the juvenile forms will utilize an attachment form to list multiple offenses. Separate petitions will be required for offenses related to different petition numbers or for offenses that are not eligible for the same relief.</p> <p>CLAC declines the suggestion that form CR-187 retain an integrated proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>CLAC and Fam/Juv acknowledge that there appear to be some efficiencies in including the prosecuting agency response on forms CR-187 and JV-744; however, after discussion, the committees concluded that the response by the prosecuting agency should be filed on a separate form. Separate</p>
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			<p>Additional Comments Regarding proposed CR-188, we suggest the following:</p> <p>1) add a section where the court affirmatively acknowledges the petitioner/applicants hearing option (e.g., Petitioner/Applicant requested personal appearance and appeared at this hearing, Petitioner/Applicant waived personal appearance), and</p> <p>2) in addition to the checkboxes under “Reasons for Denial,” add a sentence that makes it mandatory for the court to include a reason(s) when the application/petition is denied, (e.g., “3. RESENTENCING/REDESIGNATION DENIED: [In italics] The Court must include reason(s) for denial.”).</p>	<p>forms will facilitate the court clerk’s processing of the forms.</p> <p>1) CLAC agrees with this comment and has added a hearing information section notifying the petitioner/applicant to his/her right to a hearing.</p> <p>2) CLAC declines the suggestion to require express reasons for the court’s denial of relief because it is not required under Health & Safety Code section 11361.8.</p>
8.	Superior Court of California, Los Angeles	AM	<p>W17-01 Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 Proposed Modifications:</p> <p>Form CR-187 Adult Crime(s) form: Prosecuting Agency Response (page 2 of 3) - add a box to indicate that the petitioner does not meet the criteria for relief.</p> <p>Proof of Service (page 3 of 3), item 2 - remove the</p>	<p>CLAC declines the suggestion to add a box to the Prosecuting Agency Response indicating that the petitioner does not meet the criteria for relief because the prosecution does not determine eligibility under Health & Safety Code section 11361.8.</p> <p>CLAC agrees with the suggestion to remove</p>

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			<p>words “to Infraction.” The form’s purpose is broader.</p> <p>Form JV-744</p> <p>Instructions 1st bullet - change first sentence to “Use this form if you went to court and were found to have committed a marijuana-related offense when you were under the age of 18 and you want to reduce the charge on your record to an infraction.”</p> <p>Instructions 3rd bullet - change to read “You may contact the attorney who last represented you on the marijuana-related offense. If you cannot locate that attorney, the public defender's office can assist you.”</p> <p>Instructions 4th bullet C. - add sentence at the end “The clerk of the court in the county where the case was heard will help you if you do not have all the information.”</p> <p>Instructions 4th bullet E. - delete the sentence “So, if it was a misdemeanor or a felony, it will now be classified like a traffic ticket.”</p> <p>Item 2 - after “On (date):” leave more room for multiple dates. Change “(<i>check one</i>)” to “(<i>check all that apply</i>).”</p> <p>Item 4 - change the second sentence to “I request the court’s dispositional order be recalled and the</p>	<p>the words “to infraction” from the proof of service.</p> <p>Fam/Juv agrees with the language changes proposed and has made the suggested revisions.</p> <p>This proposed revision places a duty on private attorneys that is not supported by Proposition 64; therefore, Fam/Juv declines to make the suggested revision.</p> <p>This proposed revisions places a duty on the court clerk that is not supported by Proposition 64; therefore, Fam/Juv declines to make the suggested revisions.</p> <p>Fam/Juv agrees with the language changes proposed and has made the suggested revisions.</p> <p>Fam/Juv agrees that the date information needs to be revised. The form has been revised to read “check all that apply” rather than “check one” and will include a space for the date after each code section.</p> <p>Fam/Juv agrees with the language changes proposed and has made the suggested</p>
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		<p>offense be redesignated as an infraction in accordance with Health and Safety Code section 11361.8(f).”</p> <p>Form JV-746 (circulated as JV-745) Item 2 first box - change the last sentence to “The court hereby redesignates the following offense(s) (indicate offense(s)).”</p> <p>Request for Specific Comments: Does the proposal appropriately address the stated purpose? Yes, the proposal appropriately addresses the stated purpose.</p> <p>Should the criminal and juvenile forms more closely parallel each other where possible including but not limited to: Should form CR-187, the application/petition form for adults be in more plain language format like form JV-744 to make it easier for self-represented individuals to complete the form? The language in the adult form, CR-187 is clear and follows the language used for other forms in this area of litigation. We have a number of comments about the language on the Juvenile forms. Please see the proposed modifications above. The danger in using simplified language is that it may not accurately convey the law.</p> <p>Does section 2 of form JV-744 provide the court with sufficient information to take action on the request or should it be modified to be more like</p>	<p>revisions.</p> <p>Fam/Juv agrees that the last sentence needs to be revised and recommends that it read: “The court hereby redesignates the following offenses as infractions (indicate offense(s)).”</p> <p>No response necessary.</p> <p>CLAC: No response necessary.</p> <p>Fam/Juv agrees that the suggested revisions to the juvenile forms increase the clarity and accuracy of the forms and has incorporated the suggestions.</p> <p>Fam/Juv agrees that it is not necessary to require that quantity be included on the juvenile form.</p>
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		<p>form CR-187 in terms of requesting information on the quantity of marijuana involved in the offense?</p> <p>There is no need to address quantity in juvenile cases. There is no distinction drawn by Prop 64 as to quantity when the offense is committed by a juvenile. Otherwise, the language in item 2 should be adequate as modified in the above proposed modifications to form JV-744.</p> <p>Is it preferable for the juvenile court to route filed JV-744 requests for relief to the other stakeholders (probation and the prosecuting agency), or, similar to CR-187, should juvenile petitioners be required to serve the petition on those entities?</p> <p>The court should be required to serve when the form is filed by the youth. If filed by an attorney, the attorney should serve the parties.</p> <p>Should form CR-187 and form JV-744 be that same in terms of whether they allow for a request for relief for multiple eligible convictions/offenses on a single petition/application or require separate petitions/applications for each conviction/offense?</p> <p>Both forms should allow for multiple convictions/offenses on a single petition/application. Please see proposed modifications above for both forms.</p> <p>Should there be an attachment form for</p>	<p>Fam/Juv agrees that the court should serve the form when it is filed by the youth, as the benefit of proper service outweighs the burden of rescheduleing the hearing if the form is not properly served. Fam/Juv further agrees that if the form is properly filed by an attorney, the attorney should effectuate service and the instructions have been revised to make that clear.</p> <p>CLAC agrees that form CR-187 should allow multiple convictions/offenses on a single petition/application and has retained that aspect of the form. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>CLAC declines the request for separate</p>
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		<p>additional cases? Yes. We recommend that for the adult form CR-187 there should be an attachment for additional cases and counts. We also recommend that for the Juvenile form JV-744 the additional eligible offenses should be listed on an attachment to the form.</p> <p>Cost and Implementation Matters: Although minimal training is required to process these applications/petitions, new codes have been added to the case management system to track Proposition 64 events and new processing procedures were created.</p>	<p>attachment forms for additional cases. While a single form will apply to each case, petitioners/applicants may circle as many eligible convictions as apply to that case. This will allow courts efficiently to process them by case number while also allowing the petitioner/applicant to consolidate multiple convictions on a single form. The committee determined that this will allow courts most efficiently to process these forms.</p> <p>In contrast, Fam/Juv recommends using an attachment form for offenses that have the same petition (case) number because juvenile cases are assigned case numbers in such a way that a juvenile applicant could have many offenses related to one petition number. Fam/Juv agrees that separate petitions should be used for different petition (case) numbers and when different types of relief are requested</p> <p>No response needed.</p>
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9.	Cynthia Beltran Family Law & Juvenile Court Operations Managers Superior Court of Orange County	AM	<i>Request to Reduce Juvenile Marijuana Offense (JV-744)</i> <ul style="list-style-type: none">On page 2, we recommend adding a <i>Request for Sealing</i> section. Pursuant to 11361.8(e), a person may file an application to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as an infraction.	The Family and Juvenile Law Committee (Fam/Juv) ¹ agrees that there should be a reference to sealing on one of the juvenile forms. However, Welfare and Institutions Code sections 781 and 786 provide the only process for sealing of juvenile records; Proposition 64 does not provide for sealing. Either the juvenile record will already be sealed pursuant to the automatic process set forth in Welfare and Institutions Code section 786 or it will be sealed because the child requested sealing under Welfare and Institutions Code section 781. In this situation, the court will have to unseal the record to reduce the marijuana offense to an infraction and then reseat the record. Consequently, Fam/Juv recommends including a checkbox on form JV-746 (circulated as JV-745) that reads “The record was previously sealed pursuant to Welfare and Institutions Code sections 781 or 786 and it is ordered re-sealed.” If the record is not sealed, it is likely that the subject of the record needs to apply for sealing under
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¹ The Criminal Law Advisory Committee (CLAC) reviewed and responded to comments on the criminal law forms while the Family and Juvenile Law Committee (Fam/Juv) reviewed and responded to comments on the juvenile law forms. The responses in this document reference the specific committee responding, unless a joint response is appropriate; in those instances, the response will refer to the “committees.”

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			<ul style="list-style-type: none">On page 2, we recommend removing the <i>Prosecuting Agency Response</i> section and creating a separate form or allowing the prosecuting agency to submit their response on pleading paper. By removing the agency’s response from this form, it eliminates courts from having to replace the image of the previously filed JV-744 with the JV-744 that has the prosecuting agency’s response in their case management systems. <p><i>Juvenile Order After Request to Reduce Marijuana Offense (JV-746)</i> (circulated as JV-745)</p> <ul style="list-style-type: none">On page 1, we recommend removing the <i>For New Disposition</i> and <i>Redesignation</i> checkboxes in the title section. The form already indicates if the request is a <i>New Disposition</i> or <i>Redesignation</i> in sections 1-3. Removing the checkboxes would help ensure the selection made would not differ from what was granted or denied.	<p>Welfare and Institutions Code section 781. Fam/Juv recommends including an instruction on form JV-744 that directs reader to the sealing page on the Judicial Council website.</p> <p>Fam/Juv agrees that the response by the prosecuting agency should be submitted on a separate form and has created a form for the prosecuting agency response.</p> <p>Fam/Juv agrees that the checkboxes in the caption section may lead to confusion. The checkboxes have been deleted from the caption.</p>
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			On page 2, section 4, we recommend adding a hearing section. On the petition/request (JV-744), the petitioner has the option to request a hearing whether or not the prosecuting agency opposes their application. Adding this section would achieve consistency between the two forms.	Fam/Juv has considered including a hearing box on either the request or the order form; however, it is believed that most of these requests will go forward on the papers, without a hearing. Including a hearing box may suggest that a hearing is necessary, when, in fact, it is not.
10.	Superior Court of California, Riverside By: Susan Ryan Chief Deputy of Legal Services	N/I	Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 <ul style="list-style-type: none"><i>Comment:</i> The order does not allow the judicial officer to order a hearing set. The court suggests that the form be amended to include an area where the judicial officer orders a hearing set.<i>Comment:</i> The court suggests that the language be consistent throughout the order. #1 states “The petition is GRANTED,” #2 states “The application is GRANTED,” and #3 states “The request...” The court suggests that the word “request” be used instead of application and petition so that the wording corresponds to the JV-744	<p>CLAC agrees with the suggestion to add a hearing date on form CR-188 (Order for Petition/Application) and has added one.</p> <p>Fam/Juv has considered including a hearing box on either the request or the order form; however, it is believed that most of these requests will go forward on the papers, without a hearing. Including a hearing box may suggest that a hearing is necessary, when, in fact, it is not.</p> <p>CLAC declines the suggestion to change form CR-187 from a Petition/Application to a Request because it tracks the statutory descriptions in Health & Safety Code section 11361.8 and its plain language is readily understandable to an adult audience.</p>

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			<p>form.</p> <ul style="list-style-type: none">• <i>Comment:</i> The proposal does not address the time frame for the submission of the prosecuting agency’s response.• <i>Comment:</i> Petitioners should be responsible for serving the stakeholders (e.g. probation and District Attorney) and providing the court with a proof of service.• <i>Comment:</i> A petition should be filed for each conviction. This will provide a clear and accurate record, and there will be less confusion for the court, stakeholders and petitioner when addressing/filing a writ for a conviction reduction.	<p>The committees decline the suggestion to add a time frame for the prosecuting agency’s response because it is not required under Health & Safety Code section 11361.8.</p> <p>CLAC agrees with the suggestion that the petitioner/applicant serve the prosecuting agency with the Petition/Application and has retained that requirement.</p> <p>Fam/Juv determined that the court should serve the juvenile form JV-744 when it is filed by the youth, as the benefit of proper service outweighs the burden of rescheduling the hearing if the form is not properly served.</p> <p>CLAC declines to require a separate petition/application form for each conviction/offense. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>Like CLAC, Fam/Juv agrees that multiple offense bearing the same case number and</p>
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			<ul style="list-style-type: none">• <i>Comment:</i> The prosecuting agency response should be a separate pleading as it will eliminate any confusion on the record as to what is being filed. If the document is left in its current format, confusion may occur when processing the prosecuting agency's response. A separate document will ensure that the record is clear and accurate.	<p>seeking the same relief should be filed on a single petition. Separate petitions should be used for different petition (case) numbers and when different types of relief are requested</p> <p>The committees agree that the prosecuting agency's response should be separated from the petition/application, as a separate response form will streamline the filing process and eliminate the need for duplicate copies of the form in the court file. The prosecuting agency's response now contains an integrated proof of service, intended to ensure that the prosecution serves the petitioners/applicants, many of whom will be self-represented, with its response.</p>
11.	Superior Court of California, San Diego Mike Roddy Executive Officer	AM	<ul style="list-style-type: none">• Does the proposal appropriately address the stated purpose? <i>Yes</i>.• Should the criminal and juvenile forms should more closely parallel each other where possible, including but not limited to:<ul style="list-style-type: none">o Should form CR-187, the application/petition form for adults be in more plain language format like form JV-744 to make it easier for self-represented individuals to complete the form? <i>Yes</i>.o Does section 2 of form JV-744 provide the court	<p>No response needed.</p> <p>CLAC agrees that form CR-187 should be simplified and has simplified the language.</p> <p>Fam/Juv declines to include a request for the</p>

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			<p>with sufficient information to take action on the request or should it be modified to be more like form CR-187 in terms of requesting information on the quantity of marijuana involved in the offense? <i>It should be modified.</i></p> <p>o Is it preferable for the juvenile court to route filed JV-744 requests for relief to the other stakeholders (probation and the prosecuting agency), or, similar to CR-187, should juvenile petitioners be required to serve the petition on those entities? <i>The former is preferable, as it is more likely to result in actual, proper service.</i></p> <p>o Should form CR-187 and form JV-744 be that same in terms of whether they allow for a request for relief for multiple eligible convictions/offenses on a single petition/application or require separate petitions/applications for each conviction/offense? <i>Form CR-187 should require separate petitions/applications for each conviction/offense.</i></p> <p>• Should there be an attachment form for additional cases? <i>Yes.</i></p>	<p>quantity involved as it is not required by the statute.</p> <p>Fam/Juv agrees that the court should serve the form when it is filed by the youth, as the benefit of proper service outweighs the burden of rescheduling the hearing if the form is not properly served. If the form is filed by an attorney, the attorney should effectuate service.</p> <p>CLAC declines to require a separate petition/application form for each conviction/offense. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>CLAC declines to require an attachment form to CR-187 for each conviction/offense for the reasons stated above.</p> <p>After consideration, the committees decided that records processing requires that offenses related to different case numbers be filed on separate petitions/applications, rather than be</p>
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			<ul style="list-style-type: none">• Should form CR-187 retain an integrated proof of service? <i>Yes</i>. If not, why?• Should forms CR-187 and JV-744 include the prosecuting agency response, or should the response be on a separate form? <i>They should include the response.</i> <p>The advisory committees also seek comments from <i>courts</i> on the following cost and</p>	<p>handled via attachments to one application.</p> <p>While the criminal law form will allow for multiple offense with the same case number to be listed on a single petition/application, the juvenile forms will utilize an attachment form to list multiple offenses. Separate petitions will be required for offenses related to different petition numbers or for offenses that are not eligible for the same relief.</p> <p>CLAC declines the suggestion that form CR-187 retain an integrated proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>CLAC and Fam/Juv decline the suggestion to retain the prosecuting agency’s response in the petition/application. A separate response form will streamline the filing process and eliminate the need for duplicate copies of the form in the court file.</p> <p>No response needed.</p>
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			<p>implementation matters:</p> <ul style="list-style-type: none">• Would the proposal provide cost savings? If so please quantify. <i>Unknown.</i>• 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. <i>Training staff (court clerks, back office clerks, clerk supervisors—hours of training unknown) and creating procedures.</i>• Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <i>Yes.</i>• How well would this proposal work in courts of different sizes? <i>Unknown.</i> <p><u>FORM CR-187</u></p> <ul style="list-style-type: none">• All pages – Change footer to: <p>PROPOSITION 64 PETITION/APPLICATION</p> <p>ADULT CRIMES</p> <ul style="list-style-type: none">• Page 1 - Third box from top of form (left side) – title of form: <p>PROPOSITION 64 - ADULT CRIMES</p> <p><input type="checkbox"/> PETITION FOR RESENTENCING</p>	<p>CLAC has simplified the language on form CR-187.</p>
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			<p>OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> APPLICATION FOR REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f))</p> <ul style="list-style-type: none">• Page 1 - Fourth box from top of form (“INSTRUCTIONS”): Suggestions to make the form more user-friendly for unrepresented litigants:• Before filing this form, petitioner/applicant should consult local court rules and court staff to determine find out if a formal hearing on the petition/ or application will be scheduled.• If the petitioner is currently serving a sentence for a qualified crime, please fill out sections 1 and 2(a).• If the applicant has completed the sentence for a qualified crime, please fill out sections 1 and 2(b).• Complete sections 3 and 4 as necessary.• Upon the filing, a copy of the petition/ or application, the petitioner/applicant is required to must be immediately served on the office of the prosecuting agency (the district attorney or city attorney, as appropriate) with a copy of the	
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			<p>petition/application. It may be served personally or by mail; the signed Proof of Service, attached to this form, must be filed with the court.</p> <p>• Page 1 – Item 1:</p> <p>On <i>(date)</i>: _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of violating the following Health and Safety Code section <input type="checkbox"/> 11357 <input type="checkbox"/> 11358 <input type="checkbox"/> 11359 <input type="checkbox"/> 11360, which has been reclassified under Proposition 64.</p> <p>Petitioner/Applicant further states that, when committing the conduct resulting in the conviction, he/she was: <input type="checkbox"/> 18 to 20 years of age; <input type="checkbox"/> 21 years old of age or older. Date of birth: _____</p> <p>Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was: . . .</p> <p>Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:</p> <p><input type="checkbox"/> not more less than 28.5 grams of marijuana not in the form of concentrated cannabis; <input type="checkbox"/> not more less than 4 grams of marijuana in the form of concentrated cannabis; <input type="checkbox"/> not more less than 8 grams of marijuana in the form of concentrated cannabis;</p>	
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			<div><div><input type="checkbox"/>not more</div><div>less than 6 marijuana plants.</div></div> <div><div>• Page 2 – Item 2: If this form will continue to allow information for more than one conviction in Item 1, as opposed to requiring separate petitions/applications for each conviction/offense, the following changes are suggested:</div><div>Petitioner is currently serving the sentence for the crime(s) noted above, and requests the sentence(s) be recalled and that he/she be resentenced or the charge(s) be dismissed as required by law.</div><div>Applicant has completed the sentence(s) for the crime(s) noted above, and requests the sentence(s) be recalled and the conviction(s) be redesignated or dismissed. If the conviction(s) is/are dismissed, applicant requests the court's record of conviction(s) be sealed.</div><div>• Page 2 – Item 3: Petitioner/applicant waives gives up the right to have this matter heard by the original sentencing judge.</div><div>• Page 2 – Item 4: Petitioner/applicant understands there is he/she has a right to personally attend any hearing held in this matter. Petitioner/applicant gives up that right; the matter may be heard without his/her appearance presence.</div><div>• Page 2 - Below item 4: Add verification? (I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.)</div></div>	<div>CLAC declines the suggestion to require the petitioner/applicant’s signature to be under penalty of perjury because it is not required by Health & Safety Code section 11361.8.</div>
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			<p>Page 2 – Signature lines: For consistency with JV-744 (and other forms, e.g., CR-300), use all capitals for SIGNATURE OF PETITIONER/APPLICANT and SIGNATURE OF PROSECUTING ATTORNEY.</p> <ul style="list-style-type: none">• Page 2 - Below signature of petitioner/applicant: For consistency with JV-744, add TO BE FILLED OUT BY THE PROSECUTING AGENCY above the horizontal line demarcating the prosecuting agency’s response.• Page 2 - PROSECUTING AGENCY RESPONSE: Re-order the responses to mirror the order of responses on the JV-744. That is, the second response should be “The prosecuting agency does not object to the petitioner/applicant’s eligibility for relief, but requests a hearing on the issue of resentencing” (currently the last response), and the box/line for “Other:” should be underneath “Petitioner is eligible for relief, but relief should be denied...” (currently positioned between the two specified reasons for objecting).• Page 3 - Third box from top of form (left side) – title of form: <p>PROOF OF SERVICE Check Method of Service (<i>check only one</i>):</p>	<p>CLAC has aligned the formatting of the adult forms to extent possible with the juvenile forms.</p> <p>CLAC has deleted the word “Check” in the title of the Proof of Service but will retain it next to the check boxes in item number three to conform to other Judicial Council Proof of</p>
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			<p>• Page 3 – Item 2:</p> <p>I served a copy of the Petition/Application for Resentencing or Reduction to Infraction Redesignation on the person(s) or persons listed below as follows:</p> <p>(1) Name of person served:</p> <p>(2) Address where served:</p> <p>(3) Date served:</p> <p>(4) Time served: AM PM</p> <p>• Page 3 – Item 3:</p> <p>By Personal service. I personally delivered the documents to the person(s) at the address(es) listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers document could be left, by leaving them it in a conspicuous place in the office between the hours of nine in the morning 9:00 a.m. and five in the evening 5:00 p.m.</p> <p>By-United States mail. I enclosed the documents in a sealed envelope or package addressed to the person(s) at the address(es) in item 2 and (specify <i>check one</i>):</p> <p>I am a resident of or employed in the county where the mailing occurred. . . .</p>	Service forms.
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		<ul style="list-style-type: none">• Page 3 – Verification (insert period at end of sentence): I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <p style="text-align: center;"><u>FORM CR-188</u></p> <ul style="list-style-type: none">• All pages – Change footer to: PROPOSITION 64 ORDERS ADULT CRIMES <ul style="list-style-type: none">• Page 1 - Third box from top of form (left side) – title of form: PROPOSITION 64 ORDERS- ADULT CRIMES <input type="checkbox"/> AFTER PETITION FOR RESENTENCING OR DISMISSAL (Health & Saf. Code, § 11361.8(b)) <input type="checkbox"/> AFTER APPLICATION FOR REDESIGNATION OR DISMISSAL/SEALING (Health & Saf. Code, § 11361.8(f)) <ul style="list-style-type: none">• Page 1 – Item 1: Change “indicate crime(s)” to	<p>CLAC declines the suggestion to require the petitioner/applicant to sign under penalty of perjury because it is not required by Health & Safety Code section 11361.8</p> <p>CLAC declines the suggestion to change the footer on form CR-188 to maintain consistency with other Judicial Council forms.</p> <p>CLAC has changed the word “indicate” to “specify” on form CR-188.</p>
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		<p>“(specify crime(s)).”</p> <ul style="list-style-type: none">• Page 1 – Item 2: Change “indicate crime(s)” to “(specify crime(s))” and move to beginning of next line (see, e.g., item 1).• Page 2 – Item 3: Delete indent for the first check box (the order). Keep indents for the following check boxes (reasons for the order). Change first paragraph to: The petitioner/applicant is ineligible for the requested relief. The request for resentencing/redesignation/dismissal/sealing is DENIED as to the following crime(s): _____ for the following reasons: <p>• Page 2 – Item 5: Change “§11590” to “section 11590.”</p> <p style="text-align: center;"><u>FORM JV-744</u></p> <ul style="list-style-type: none">• Page 1 – INSTRUCTIONS• Use this form if you went to court for a marijuana-related offense when you were under the age of 18 and you want your record changed. You need to use a different form if you were 18 or older at the time of the offense.• You need to uUse a separate form for each juvenile marijuana offense on your record.• If this form asks for information that you do not have, you can contact your attorney. If you don't have an attorney, the public defender's office or the	<p>CLAC has changed “§11590” to “section 11590” on form SR-188.</p> <p>Fam/Juv agrees with the language changes proposed and has revised the forms accordingly, unless otherwise noted below.</p>
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			<p>court in the county where you went to court can probably help you get these records the information.</p> <ul style="list-style-type: none">• How to fill out the form without an attorney:<ul style="list-style-type: none">A. Put Print your name and contact information in the box at the top of the form and in item 1 below.B. Put Print the address of the court from your court papers here in the box below your address. This form must be filed in the same county where you went to court for this offense.C. Fill out number item 2 about the marijuana offense.D. If you are on probation now for the marijuana offense, also check number item 3 to ask the judge to make new dispositional orders (a new sentence) based on the new law. The new orders cannot be more severe than your the original sentence orders.E. If you have completed probation for the marijuana offense, check number item 4 to ask the judge to redesignate your offense to as an infraction. So, if it was a misdemeanor or a felony, it will now be classified like a traffic ticket.F. You can check number item 5 if you are willing to have any available judge hear your request. If you check that box, the presiding judge may have a different judge hear your request.G. A hearing is not required unless you request it. You can check one of the boxes in number item 6 if you want the court to set a hearing.H. You can check number item 7 if you do not want to come to court if there is a hearing. <p>• Page 1 – Item 1: Insert blank lines after each</p>	
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			<p>sentence (as opposed to blank spaces).</p> <ul style="list-style-type: none">• Page 1 – Item 2: Insert blank line after On (<i>date</i>): and change: This offense Proposition 64 has been reclassified this offense as an infraction when committed by a person under the age of 18 under Proposition 64.• Page 2 – Item 3: REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING) I am currently subject to a dispositional order (on probation) for the marijuana offense checked in number item 2. I request that the order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(b) so that I will be resentenced subject to a new dispositional order.• Page 2 – Item 4: I am no longer a ward of the court (probation is completed) for the marijuana-related offense checked in number item 2. I request the court's dispositional order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(f) so that the offense will be redesignated as an infraction.• Page 2 – Item 5: I know that I have the right to have this matter heard by the judge who originally sentenced me. I am willing to have any available judge hear the case	
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			<p>this request.</p> <ul style="list-style-type: none">• Page 2 – Item 6: <p>I request a hearing if the prosecuting agency opposes my application request. I understand that, if I check by checking this box, the court will set hold a hearing only if it my request is opposed by the Prosecution/Prosecution Agency prosecuting agency.</p> <p>I request that the court set hold a hearing even if my application request is not opposed by the Prosecution/Prosecution Agency prosecuting agency.</p> <ul style="list-style-type: none">• Page 2 – Item 7: <p>I understand that I have a right to personally attend any hearing held in this matter and argue on my behalf. I give up that right. The case may be heard without my appearance presence.</p> <ul style="list-style-type: none">• Page 2 – Signature line for prosecuting agency: For consistency with CR 187, change SIGNATURE OF PROSECUTING AGENCY ATTORNEY. <p><u>FORM JV-746 (circulated as JV-745)</u></p> <ul style="list-style-type: none">• Both pages – Footer: <p><u>JUVENILE ORDER AFTER REQUEST</u></p>	<p>Fam/Juv agrees with the language changes proposed and has revised the forms accordingly.</p>
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			<p>TO REDUCE JUVENILE MARIJUANA OFFENSE</p> <p>• Page 1 – Fourth box from top of form (left side) – title of form:</p> <p>JUVENILE ORDER AFTER REQUEST TO REDUCE JUVENILE MARIJUANA OFFENSE (Prop. 64–Health and Safety & Saf. Code, § 11361.8(m))</p> <p>FOR NEW DISPOSITION REDESIGNATION (Health & Saf. Code, § 11361.8(b)) (Health & Saf. Code, § 11361.8(f))</p> <p>• Page 1 – Item 1: Change (indicate offense) to (<i>specify</i>), and replace blank spaces with blank lines. _____ hours of drug education and counseling and/or _____ hours of community service, within _____ days from the date of this order.</p> <p>• Page 1 – Item 2:</p> <p>The petitioner applicant is eligible for the requested relief. The application is GRANTED. The court hereby redesignates the following offense for which</p>	<p>No response required.</p>
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		<p>the child was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 as an infraction (indicate offense <i>specify</i>): _____.</p> <p>• Page 1 – Item 3: The petitioner/applicant is ineligible for the requested relief. The request for a new dispositional order/ or redesignation is DENIED for the following reasons:</p> <p>The offense for which the petitioner/applicant was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.</p> <p>Although the petitioner/applicant is eligible for relief, for reasons set forth on the record, the court finds that modifying the petitioner's his/her disposition would pose an unreasonable risk of danger to public safety.</p> <p>Additional Comments:</p> <p>1) Our court has our own local form (SDSC JUV-265) and support the proposed new Judicial Council forms being optional.</p> <p>2) In our county, the Public Defender is filing most of these applications. The JV-744 does not seem to</p>	<p>No response required.</p> <p>The JV-744 does allow for filing by an attorney, as the address information has a</p>
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			allow for that. 3) In our county, the DNA issue is still alive in these cases. These forms do not allow a petitioner to request expungement of DNA.	box for state bar number and attorney address. It is anticipated that many self-represented litigants will file requests; as such, form JV-744 was drafted in simpler language. Proposition 64 does not address DNA expungement.
12.	TCPJAC/CEAC Joint Rules Subcommittee Judicial Council of California By: Claudia Ortega	AM	The following comments are submitted by the TCPJAC/CEAC Joint Rules Subcommittee (JRS), on behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC). W17-01 Criminal Procedure and Juvenile Law: Judicial Council Forms Under Proposition 64 (Approve forms CR-187, CR-188, JV-744, and JV-745) Recommended JRS Position: Agree with proposed changes if modified. Regarding the impact on existing automated systems: There will be an impact on existing systems, although it is not necessarily known to what extent. The level of impact depends upon the sophistication of changes necessary to distinguish any new forms, as well as the actions or events for these requests. This will cause courts to incur costs internally or externally depending upon whether they have in-house IT staff or contract for this	No response needed. The committees acknowledge that Proposition 64 will have, and has likely already had, a work load impact on the courts. With that in mind, the committees drafted forms intended to ease the work load impact of the legislation.

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			<p>service.</p> <p>Regarding additional training: Training for court staff will be necessary in the areas of (1) processing of the forms, potential interaction with agencies, and any necessary internal courtroom hearings.</p> <p>Regarding increases to court staff's workload: Additional forms and process will increase court staff workload. It is too early to determine if the impact will be significant.</p> <p>Regarding the impact on local or statewide justice partners: There will be an impact on justice partners given the influx of forms and the process required of them.</p> <p>Regarding whether the proposed date for implementation is feasible or problematic: The first implementation date of January 23, 2017 is not feasible. However, the second implementation date of September 1, 2017 for revised forms does provide for some consistency among courts so that a permanent solution can be reached.</p> <p>Suggested Modifications:</p> <ol style="list-style-type: none">1. The JRS recommends the addition of a third form for both juveniles and adults. For both juveniles and adults, there should be a total of three separate forms – one for the	<p>Again, the committees are aware that Proposition 64 may impact court work load. Consequently, the committees have endeavored to create forms that are simple to use and will have minimal impact on the courts and court staff.</p> <p>See response above.</p> <p>The criminal and juvenile law forms have been drafted with an eye toward simple and efficient processes for both the courts and justice partners.</p> <p>Because of the immediate need for these optional forms, the committees determined that an implementation date of January 23, 2017, during the comment period, would allow those courts and persons who needed the forms to have access to them, while still considering comments for modifications effective September 1, 2017.</p> <p>The committees agrees that the prosecuting agency's response should be separated from the petition/application, as a separate response form will streamline the filing</p>
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			<p>petition, one for the District Attorney or Prosecuting Agency Response, and a third for the Court Order. Having three separate forms for both juveniles and adults will greatly facilitate the processing of the forms.</p> <p>2. Regarding Form CR-187, the JRS recommends adding to the “Instructions” section an additional instruction that instructs petitioners/applicants to use a separate form for each case that they have. Having one form per case will make it easier for court clerks to file the forms accurately.</p>	<p>process and eliminate the need for duplicate copies of the form in the court file. The prosecuting agency’s response now contains an integrated proof of service, intended to ensure that the prosecution serves the petitioners/applicants, many of whom will be self-represented, with its response.</p> <p>CLAC also separated the Proof of Service from the Petition/Application. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>CLAC declines the suggestion to add language to the instructions section. However, the committee agrees that form CR-187 should allow multiple convictions/offenses on a single petition/application and has retained that aspect of the form. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p>
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			<div>3. Regarding From CR-187, Section 1 “Conviction Information”, the JRS recommends replacing “Conviction A” and “Conviction B” to “Count A” and “Count B.”</div> <div>Request for Specific Comments:</div> <div><ul style="list-style-type: none">Does the proposal appropriately address the stated purpose? Comment: Yes.Should the criminal and juvenile forms should more closely parallel each other where possible, including but not limited to:<div><div>➤ Should form CR-187, the application/petition form for adults be in more plain language format like form JV-744 to make it easier for self-represented individuals to complete the form? Comment: Bullet 1 on Adult Petition is unnecessary. It could be troublesome and there is a box for a hearing if necessary. At the time of filing the clerk does not know if there may or may not be a hearing. Initially there may not be a hearing; however, if the judicial officer discovers a reason given the</div></div></div>	<div>CLAC declines the suggestion to change “Conviction” to “Count” in the Conviction Information section. The committee has restructured the Conviction Information section but retained the term “conviction” as it is readily understandable to an adult audience.</div> <div>No response needed.</div> <div>CLAC agrees that form CR-187 should be simplified and has simplified the language.</div>
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			<p>response from the DA or Probation, there could potentially be a hearing.</p> <p>➤ Should form CR-187 and form JV-744 be that same in terms of whether they allow for a request for relief for multiple eligible convictions/offenses on a single petition/application or require separate petitions/applications for each conviction/offense? Comment: Separate petitions for each conviction/offense make for a cleaner record and can be problematic for many case management systems if not separate.</p> <ul style="list-style-type: none">• Should there be an attachment form for additional cases? Comment: N/A. See above.• Should form CR-187 retain an integrated	<p>CLAC declines to require a separate petition/application form for each conviction/offense. Using a single form for each case that permits petitioners/applicants to include all eligible convictions that apply to that case, will enable courts to efficiently process petitions/applications by case number while allowing the petitioner/applicant to consolidate multiple convictions on a single form.</p> <p>Like CLAC , Fam/Juv agrees that multiple offenses related to a single petition (in other words, each eligible offense is associated with the same petition number) may be filed on the same application. Unlike CLAC, the juvenile forms will utilize an attachment form to list multiple offenses. Separate petitions will be required for offenses related to different petition numbers or for offenses that are not eligible for the same relief.</p> <p>CLAC declines the suggestion that form CR-</p>
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			<p>proof of service? If not, why? Comment: POS is fine. Other forms have them.</p> <ul style="list-style-type: none">Should forms CR-187 and JV-744 include the prosecuting agency response, or should the response be on a separate form? Comment: The response and POS for the response should be on a separate form. The court cannot file the original petition if the response is on the same form. The POS becomes a problem for the response and the onerous work becomes the court's rather than the petitioner's and/or the appropriate respondent.	<p>187 retain an integrated proof of service. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee has separated the Proof of Service for the Petition/Application.</p> <p>The committees agree that the prosecuting agency's response should be separated from the petition/application, as a separate response form will streamline the filing process and eliminate the need for duplicate copies of the form in the court file. The prosecuting agency's response now contains an integrated proof of service, intended to ensure that the prosecution serves the petitioners/applicants, many of whom will be self-represented, with its response.</p> <p>CLAC also agrees with the suggestion that the Proof of Service be on a separate form. Separating the Proof of Service from the Petition/Application will allow courts to process more efficiently by eliminating the need for a second Petition/Application to be filed after the petitioner/applicant has served the prosecuting agency. The committee will separate the Proof of Service for the Petition/Application.</p>
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			<ul style="list-style-type: none">• Would the proposal provide cost savings? If so please quantify. Comment: Cost savings are not identifiable.• 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. Comment: Already identified. Updating CMS systems with forms, events, actions.• Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Comment: Yes. The JRS actually recommends an effective date of one month from Judicial Council approval because the refined forms are needed by the courts as soon as possible.• How well would this proposal work in courts of different sizes? Comment: This will likely work well in both small and large courts since small courts must train more staffing given the workforce is smaller. CMS tends to be more manageable given	<p>No response needed.</p> <p>No response needed.</p> <p>While the version of the forms approved for use on January 23, 2017, remain available for court use, the committees agree that the forms are needed by the courts as soon as possible. Because of the immediate need for these optional forms, the committees are proposing that the new and revised forms be made effective July 1, 2017.</p> <p>No response needed.</p>
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			often there is only one case management system and agency communication is likely less cumbersome given the small community. Larger courts may have two case management systems (criminal and juvenile) to update yet have in-house IT staff (less identifiable outside costs), specific staff devoted to both criminal matters and juvenile matters (easier to train and less staff to train). So either way there will be impacts just likely shown in different ways.	
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