



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 21, 2018

Title

Juvenile Law: Vacatur of Convictions Related to Human Trafficking and Preservation of Extended Foster Care Eligibility

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 5.812, 5.903, and 5.906; adopt Cal. Rules of Court, rule 5.811; revise forms JV-320, JV-367, JV-462, JV-464-INFO, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683; approve forms JV-748 and JV-749

Recommended by

Family and Juvenile Law Advisory Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Agenda Item Type

Action Required

Effective Date

January 1, 2019

Date of Report

August 30, 2018

Contact

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend three rules and adopt one rule of the California Rules of Court, revise 10 Judicial Council forms, and approve two Judicial Council forms to implement Assembly Bill 604 (Gipson; Stats. 2017, ch. 707), which clarified that extended foster care benefits are available to young people who have suffered adjudications related to human trafficking that are eligible for vacatur under Penal Code section 236.14. The committee further recommends revising form JV-462 to include certain changes necessitated by recent legislation, making a technical change to form JV-462, and revising form JV-367 to reflect how the form is typically used. Finally, the committee recommends amending rules 5.903 and 5.906 to clarify who may attend status review hearings for former wards who have become nonminor dependents.

Recommendation

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

1. **Amend rule 5.906**, *Request by nonminor for the juvenile court to resume jurisdiction*, to clarify that a young person whose underlying conviction was vacated pursuant to Penal Code section 236.14 is eligible for extended foster care;
2. **Revise form JV-464-INFO**, *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care*, to state that extended foster care is available to a young person who was in foster care on his or her 18th birthday and whose underlying petition is subject to vacatur;
3. **Revise form JV-466**, *Request to Return to Juvenile Court Jurisdiction and Foster Care*, to include sections that seek information relevant to an applicant who has obtained relief under Penal Code section 236.14;
4. **Revise form JV-470**, *Findings and Orders Regarding Prima Facie Showing on Nonminor's Request to Reenter Foster Care*, to include orders applicable to a young person whose conviction was vacated under Penal Code section 236.14;
5. **Revise form JV-472**, *Findings and Orders After Hearing to Consider Nonminor's Request to Reenter Foster Care*, to include orders applicable to a young person whose conviction was vacated under Penal Code section 236.14;
6. **Adopt rule 5.811**, *Modification to transition jurisdiction for a ward older than 17 years and 5 months with a petition subject to vacatur*, to establish the procedure that must be followed when a young person aged 17 years and 5 months or older is eligible for vacatur.
7. **Amend rule 5.812**, *Additional requirements for any hearing to terminate jurisdiction over child in foster care and for status review or dispositional hearing for child approaching majority*, to clarify that the court need not find that a young person whose petition is subject to vacatur has completed his or her rehabilitative goals because the young person is no longer subject to a delinquency adjudication and to specify that the court's order modifying jurisdiction to transition jurisdiction must be made before the underlying petition is vacated and must contain reference to certain findings required by title IV-E, as well as information about sealing and destruction of records related to the arrest and/or conviction..
8. **Revise form JV-680**, *Findings and Orders for Child Approaching Majority—Delinquency*, to include language that states the form also applies to children whose underlying petition is subject to vacatur pursuant to Penal Code section 236.14.

9. **Revise form JV-682, *Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Child Younger Than 18 Years of Age***, to include the findings and orders that will transition the young person to the transition jurisdiction of the juvenile court.
10. **Revise form JV-683, *Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Ward Older Than 18 Years of Age***, to include the findings and orders that will transition the young person to the transition jurisdiction of the juvenile court.
11. **Approve form JV-748 *Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)***, which allows applicants to request that arrests and adjudications from various jurisdictions be expunged;
12. **Approve form JV-749 *Order After Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)***.
13. **Revise form JV-462 *Findings and Orders After Nonminor Dependent Status Review Hearing***, so that it comports with the findings and orders required by continuum of care reform.
14. **Revise form JV-367 *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor***, to ensure that the title IV-E findings are made at hearings where termination of nonminor dependent status is considered but not ordered.
15. **Revise form JV-320 *Orders under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31***, to make a technical change.
16. **Amend rule 5.903 *Nonminor Dependent Status Review Hearing***, to clarify who is entitled to attend nonminor dependent review hearings.
17. **Amend rule 5.906 *Request by Nonminor for the Juvenile Court to Resume Jurisdiction***, to clarify who is entitled to attend nonminor dependent review hearings.

Relevant Previous Council Action

All three rules and 10 forms proposed for amendment or revision, were originally created to implement extended foster care (Assem. Bill 12, Assem. Bill 212, Assem. Bill 1712, and Assem. Bill 787).¹ Rule 5.812 was last amended and six of the 10 forms were last revised in 2014 to implement clean-up legislation related to extended foster care. Likewise, the impetus for the

¹ Assem. Bill 12 (Beall; Stats. 2010, ch. 559), Assem. Bill 212 (Beall; Stats. 2012, ch. 459), Assem. Bill 1712 (Beall; Stats. 2012, ch. 846), and Assem. Bill 787 (Stone; Stats. 2014, ch. 487).

2016 amendments to rule 5.906 and revisions to forms JV-464-INFO and JV-466 was the implementation of additional legislation related to extended foster care. Form JV-367 was last revised in 2017, while form JV-320, which is included in this proposal to fix an error in the permanent plan option listed for nonminor dependents, was revised effective January 1, 2018, as part of a large revision that was intended to bring forms affected by continuum of care reform into compliance.

Analysis/Rationale

The bulk of the proposed revisions and amendments contained herein are required by Assembly Bill 604 (Gipson; Stats. 2017, ch. 707), which amended Welfare and Institutions Code sections 303, 388, 450, 451, and 11401 to ensure that young people can take advantage of both the vacatur opportunity provided by Penal Code section 236.14 *and* extended foster care, if they are otherwise eligible. Assembly Bill 604 requires the Judicial Council to create rules and forms to implement the legislation.

Before AB 604, when a young person was granted vacatur of his or her underlying petition and all associated orders, it meant he or she was no longer eligible for extended foster care benefits because the basis for juvenile court jurisdiction had been vacated. Consistent with the legal changes made by AB 604, the proposed changes to the rules and forms will enable young people who may have exited the system after their underlying petition was vacated pursuant to Penal Code section 236.14, to reenter juvenile jurisdiction.

Implementing the reentry piece of AB 604 and the automatic transition jurisdiction for children 17 years and 5 months and older will be straightforward; however, the legislation does not establish a process for children younger than 17 years and 5 months who are eligible for vacatur. Under Welfare and Institutions Code section 450, only children who are 17 years and 5 months or older are eligible for transition jurisdiction. Consequently, children younger than that who seek to have their underlying petition vacated will not automatically fall within the transition jurisdiction of the juvenile court. This issue cannot be resolved through the rules and forms process, but the committee has attempted to address it by amending rule 5.812 to highlight the statutory sections that may provide the appropriate process.

The committee also proposes approving forms that will enable young people to take advantage of the relief offered in Penal Code section 236.14. The proposed form, a petition for vacatur and an order, will create a process for vacating offenses described in Penal Code section 236.14. . It should be noted that the Criminal Law Advisory Committee (CLAC) circulated a similar proposal for comment.² However, based on the comments received CLAC is not moving forward with its proposal at this time. Other than comments raised about using one form for adjudications from multi-jurisdictions, the comments received by CLAC do not apply to juvenile cases.

² The CLAC proposal, *Criminal Procedure: Vacatur of Convictions Related to Human Trafficking*, can be found here (eventually this will be a hyperlink).

Policy implications

Aside from the proposed technical changes, the recommended amendments and revisions reflect an overarching policy shift in how the juvenile justice and child welfare systems treat victims of commercial sexual exploitation. There has been recognition, at both the legislative and judicial level, that young people caught up in commercial sexual exploitation are victims, not delinquents, and should be afforded trauma-informed services and care. This policy shift is occurring at both the legislative and judicial level.

Comments

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

Fourteen commenters provided comments on this proposal. All commenters either agreed with the proposal or agreed with the proposal if it were modified. The comments received raised six main issues.

The recommendation in the proposal to sunset forms JV-748 and JV-749 received 10 comments. Many of these commenters strongly opposed having these forms sunset at all, or proposed that the sunset period be lengthened. These commenters noted that children continue to be arrested and adjudicated wards based on prostitution-related crimes, and that survivors of trafficking and exploitation need time to heal before they are able to access all the services and resources available to them. In light of these comments, the committee decided against having the forms sunset. The sunset date was removed from forms JV-748 and JV-749, and the sunset language in rule 5.811 was deleted.

Three commenters suggested that young people who have been arrested or adjudicated wards based on prostitution, solicitation, or loitering should be considered per se victims of trafficking because children can no longer be arrested for or charged with those crimes. After a robust discussion about the standard of evidence required by statute and the operation of the form that circulated for comment, the committee declined to follow the commenters' recommendation. The form, as it circulated for comment, allows the court to grant the applicant's request to vacate a conviction without a hearing, which achieves the result sought by the commenter.

Citing Penal Code section 236.14, three commenters recommended that form JV-748 include a section where the applicant can request that the court grant additional relief. Acknowledging that the section 236.14 allows an applicant to make such requests, the committee agreed that form JV-748 should be revised to include a section where the applicant can explain the relief requested and why it is necessary. The committee determined that form JV-749 should likewise be revised to include a section where the court can grant or deny the requested relief.

Fines and fees were also a subject of comment. Three commenters recommended that forms JV-748 and JV-749 be revised to allow applicants to request, and the court to order, reimbursement for already-paid fines and fees. While the committee found this request pertinent, Penal Code section 236.14 does not state that paid fines and fees should be reimbursed. In the absence of statutory language authorizing reimbursement for fines and fees already paid, it is beyond the Judicial Council's purview to require such an order. However, the committee determined that form JV-749 should be revised to clarify that outstanding fines and fees are set aside and discharged when the underlying offense is vacated.

Three commenters suggested that the court be responsible for service of form JV-748, even when the applicant is represented by an attorney. These commenters suggested that requiring the court to serve the form would lead to uniformity. After weighing the benefits of court service, such as efficiency and clarity of process, against the impact on the clerk's workload, the committee decided not to require the court to serve form JV-748. Instead, as circulated, the form will be served by the court only when the applicant is unrepresented.

Finally, three commenters suggested that it would be useful for applicants, particularly unrepresented applicants, to have clarity on when the application will be considered unopposed. Considering the timeline set forth in Penal Code section 236.14, which states that the application will be deemed unopposed 45 days after the prosecution receives service, the committee agreed to include an instruction on form JV-748 that states the application will be considered unopposed 60 days from the court file stamp date. Sixty days was selected to provide a cushion for service by mail.

Notably, none of the commenters expressed concern about the multi-jurisdictionality of form JV-748. Multi-jurisdictionality was an issue for the CLAC proposal. The Invitation to Comment for this juvenile proposal included a specific question about the table format proposed and none of the commenters expressed concern about the issue.

Alternatives considered

As this proposal took shape, the committee considered how best to allow an applicant to consolidate arrests and adjudications from different jurisdictions on one form. The committee discussed alternatives to the table that is currently included in form JV-748 but after consideration, it was determined that the table was the best solution.

The committee also considered the necessity of further anonymizing juvenile forms. Penal Code section 236.14, which applies to both adult convictions and juvenile adjudications, requires that the applicant's name be anonymized on documents that are available to the public. Juvenile forms are already confidential and only available to the public upon court order; however, the committee considered whether to require the use of initials on forms JV-748 and JV-749. In the end, the confidentiality already afforded juvenile forms was deemed to be sufficient.

Fiscal and Operational Impacts

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

Attachments and Links

1. Cal. Rules of Court, rules 5.811, 5.812, 5.903, and 5.906, at pages 8–18.
2. Forms JV-320, JV-367, JV-462, JV-464-INFO, JV-466, JV-470, JV-472, JV-680, JV-682, JV-683, JV-748, and JV-749, at pages 19–60.
3. Chart of comments, at pages 61–147.

Rule 5.811 of the California Rules of Court is adopted, and rules 5.812, 5.903, and 5.906 are amended, effective January 1, 2019, to read:

Rule 5.811. Modification to transition jurisdiction for a ward older than 17 years and 5 months with a petition subject to dismissal (Welf. & Inst. Code, §§ 450, 451, 727.2(i)–(j), 778; Pen. Code, § 236.14)

(a) Purpose

This rule provides the procedures that must be followed to modify delinquency jurisdiction to transition jurisdiction for a young person who is older than 17 years, 5 months of age and:

- (1) Is under a foster care placement order;
- (2) Wants to remain in extended foster care under the transition jurisdiction of the juvenile court;
- (3) Is not receiving reunification services;
- (4) Does not have a hearing set for termination of parental rights or establishment of guardianship; and
- (5) The underlying adjudication establishing wardship over the young person is subject to vacatur under Penal Code section 236.14.

(b) Setting and conduct of hearing

- (1) The probation officer must request a hearing for the court to modify delinquency jurisdiction to transition jurisdiction and vacate the underlying adjudication.
- (2) The hearing must be held before a judicial officer and recorded by a court reporter.
- (3) The hearing must be continued for no more than five court days for the submission of additional evidence if the court finds that the report and, if required, the Transitional Independent Living Case Plan submitted by the probation officer do not provide the information required by (d), and the court is unable to make all the findings required by (e).

(c) Notice of hearing

- (1) The probation officer must serve written notice of the hearing in the manner provided in section 295.

(2) Proof of service of notice must be filed by the probation officer at least five court days before the hearing.

(d) Reports

At least 10 calendar days before the hearing, the probation officer must submit a report to the court that includes information regarding:

- (1) Whether the young person is subject to an order for foster care placement and is older than 17 years, 5 months of age and younger than 18 years of age;
- (2) Whether the young person is a nonminor who was subject to an order for foster care placement on the day of the young person's 18th birthday and is within the age eligibility requirements for extended foster care;
- (3) Whether the young person was removed from the physical custody of his or her parents, adjudged to be within the jurisdiction of the juvenile court under section 725, and ordered into foster care placement; or whether the young person was removed from the custody of his or her parents as a dependent of the court with an order for foster care placement in effect at the time the court adjudged him or her to be within the jurisdiction of the juvenile court under section 725 and was ordered into a foster care placement, including the date of the initial removal findings—"continuance in the home is contrary to the child's welfare" and "reasonable efforts were made to prevent removal"—as well as whether the young person continues to be removed from the parents or legal guardian from whom the young person was removed under the original petition;
- (4) Whether each parent or legal guardian is currently able to provide the care, custody, supervision, and support the child requires in a safe and healthy environment;
- (5) Whether the young person signed a mutual agreement with the probation department or social services agency for placement in a supervised setting as a transition dependent and, if so, a recommendation as to which agency should be responsible for placement and care of the transition dependent;
- (6) Whether the young person plans to meet at least one of the conditions in section 11403(b) and what efforts the probation officer has made to help the young person meet any of these conditions;

1 (7) When and how the young person was informed of the benefits of remaining
2 under juvenile court jurisdiction as a transition dependent and the probation
3 officer's assessment of the young person's understanding of those benefits;
4

5 (8) When and how the young person was informed that he or she may decline to
6 become a transition dependent and have the juvenile court terminate
7 jurisdiction at a hearing under section 391 and rule 5.555; and
8

9 (9) When and how the young person was informed that if juvenile court
10 jurisdiction is terminated, he or she can file a request to return to foster care
11 and have the court resume jurisdiction over him or her as a nonminor.
12

13 **(e) Findings**
14

15 At the hearing, the court must make the following findings:
16

17 (1) Whether notice has been given as required by law;
18

19 (2) Whether the underlying adjudication is subject to vacatur under Penal Code
20 section 236.14;
21

22 (3) Whether the young person has been informed that he or she may decline to
23 become a transition dependent and have juvenile court jurisdiction terminated
24 at a hearing set under rule 5.555;
25

26 (4) Whether the young person intends to sign a mutual agreement with the
27 probation department or social services agency for placement in a supervised
28 setting as a nonminor dependent;
29

30 (5) Whether the young person was informed that if juvenile court jurisdiction is
31 terminated, the young person can file a request to return to foster care and
32 may have the court resume jurisdiction over the young person as a nonminor
33 dependent;
34

35 (6) Whether the benefits of remaining under juvenile court jurisdiction as a
36 nonminor dependent were explained and whether the young person
37 understands them;
38

39 (7) Whether the young person's Transitional Independent Living Case Plan
40 includes a plan for the young person to satisfy at least one of the conditions in
41 section 11403(b); and
42

1 (8) Whether the young person has had an opportunity to confer with his or her
2 attorney.

3
4 In addition to the findings listed above, for children who are older than 17
5 years, 5 months of age but younger than 18 years of age, the court must make
6 the following findings:

7
8 (A) Whether the young person's return to the home of his or her parent or
9 legal guardian would create a substantial risk of detriment to the young
10 person's safety, protection, or physical or emotional well-being—the
11 facts supporting this finding must be stated on the record;

12
13 (B) Whether reunification services have been terminated; and

14
15 (C) Whether the young person's case has been set for a hearing to terminate
16 parental rights or establish a guardianship.

17
18 (f) **Orders**

19
20 The court must enter the following orders:

21
22 (1) An order adjudging the young person a transition dependent as of the date of
23 the hearing or pending his or her 18th birthday and granting status as a
24 nonminor dependent under the general jurisdiction of the court. The order
25 modifying the court's jurisdiction must contain all of the following provisions:

26
27 (A) A statement that "continuance in the home is contrary to the child or
28 nonminor's welfare" and that "reasonable efforts have been made to
29 prevent or eliminate the need for removal";

30
31 (B) A statement that the child continues to be removed from the parents or
32 legal guardian from whom the child was removed under the original
33 petition; and

34
35 (C) Identification of the agency that is responsible for placement and care of
36 the child based on the modification of jurisdiction.

37
38 (2) An order vacating the underlying adjudication and dismissing the associated
39 delinquency petition under Penal Code section 236.14.

40
41 (3) An order directing the Department of Justice and any law enforcement agency
42 that has records of the arrest to seal those records and, three years from the

1 date of the arrest or one year after the order to seal, whichever occurs later,
2 destroy them.

3
4 (4) An order continuing the appointment of the attorney of record, or appointing a
5 new attorney as the attorney of record for the nonminor dependent.

6
7 (5) An order setting a nonminor dependent status review hearing under section
8 366.31 and rule 5.903 within six months of the last hearing held under section
9 727.2 or 727.3.

10
11 **Rule 5.812. Additional requirements for any hearing to terminate jurisdiction over**
12 **child in foster care and for status review or dispositional hearing for child**
13 **approaching majority (§§ 450, 451, 727.2(i)–(j), 778)**

14
15 **(a) Hearings subject to this rule**

16 * * *

17
18
19 **(b) Conduct of the hearing**

20 * * *

21
22
23 **(c) Reports**

24
25 (1) In addition to complying with all other statutory and rule requirements
26 applicable to the report prepared by the probation officer for a hearing
27 described in (a)(1)–(4), the report must state whether the child was provided
28 with the notices and information required under section 607.5 and include a
29 description of:

30
31 (A) The child’s progress toward meeting the case plan goals that will enable
32 him or her to be a law-abiding and productive member of his or her
33 family and the community. This information is not required if dismissal
34 of delinquency jurisdiction and vacatur of the underlying adjudication is
35 based on Penal Code section 236.14.

36
37 (B)–(E) * * *

38
39 (F) For a child other than a dual status child, including a child whose
40 underlying adjudication is subject to vacatur under Penal Code section
41 236.14, the probation officer’s recommendation regarding the
42 modification of the juvenile court’s jurisdiction over the child from that
43 of a ward under section 601 or 602 to that of a dependent under section

300 or to that of a transition dependent under section 450 and the facts in support of his or her recommendation.

(2) * * *

(d) Findings

(1) At the hearing described in (a)(1)–(4), in addition to complying with all other statutory and rule requirements applicable to the hearing, the court must make the following findings in the written documentation of the hearing:

(A) Whether the rehabilitative goals for this child have been met and juvenile court jurisdiction over the child as a ward is no longer required. The facts supporting the finding must be stated on the record. This finding is not required where dismissal of delinquency jurisdiction is based on Penal Code section 236.14.

(B)–(C) * * *

(D) For a child other than a dual status child:

(i) Who was not subject to the court’s dependency jurisdiction at the time he or she was adjudged a ward and is currently subject to an order for a foster care placement, including a child whose underlying adjudication is subject to vacatur under Penal Code section 236.14, whether the child appears to come within the description of section 300 and cannot be returned home safely. The facts supporting the finding must be stated on the record;

(ii)–(v) * * *

(2) * * *

(e) Orders

(1)–(3) * * *

(4) For a child who was not subject to the court’s dependency jurisdiction at the time he or she was adjudged a ward and is currently subject to an order for a foster care placement, including a child whose underlying adjudication is subject to vacatur under Penal Code section 236.14, the court must:

(A) Order the probation department or the child's attorney to submit an application under section 329 to the county child welfare services department to commence a proceeding to declare the child a dependent of the court by filing a petition under section 300 if the court finds:

(i) The child does not come within the description of section 450(a);

(ii) The rehabilitative goals for the child included in his or her case plan have been met and delinquency jurisdiction is no longer required; or the underlying adjudication is subject to vacatur under Penal Code section 236.14; and

(iii) The child appears to come within the description of section 300 and a return to the home of the parents or legal guardian may be detrimental to his or her safety, protection, or physical or emotional well-being.

(B)–(C) * * *

(f) Modification of jurisdiction—conditions

(1) Whenever the court modifies its jurisdiction over a dependent or ward under section 241.1, 607.2, or 727.2, the court must ensure that all of the following conditions are met:

(A) The petition under which jurisdiction was taken at the time the dependent or ward was originally removed from his or her parents or legal guardian and placed in foster care is not dismissed until after the new petition is sustained; and

(B) The order modifying the court's jurisdiction contains all of the following provisions:

(i) A reference to the original removal findings, the date those findings were made, and a statement that the finding "continuation in the home is contrary to the child's welfare" and the finding "reasonable efforts were made to prevent removal" made at that hearing remain in effect;

(ii) A statement that the child continues to be removed from the parents or legal guardian from whom the child was removed under the original petition; and

(iii) Identification of the agency that is responsible for placement and care of the child based upon the modification of jurisdiction.

(2) Whenever the court modifies jurisdiction over a young person under section 450(a)(1)(B), the court must ensure that all of the following conditions are met:

(A) The order modifying the court's jurisdiction must be made before the underlying petition is vacated;

(B) The order modifying jurisdiction must contain the following provisions:

(i) Continuance in the home is contrary the child's welfare, and reasonable efforts were made to prevent removal;

(ii) The child continues to be removed from the parents or legal guardians;

(iii) Identification of the agency that is responsible for placement and care of the young person based on modification of jurisdiction;

(iv) A statement that the underlying adjudication is vacated and the arrest upon which it was based is expunged; and

(v) An order directing the Department of Justice and any law enforcement agency that has records of the arrest to seal those records and destroy them three years from the date of the arrest or one year after the order to seal, whichever occurs later.

Rule 5.903. Nonminor dependent status review hearing (§§ 224.1(b), 295, 366.1, 366.3, 366.31)

(a) Purpose

The primary purpose of the nonminor dependent status review hearing is to focus on the goals and services described in the nonminor dependent's Transitional Independent Living Case Plan and the efforts and progress made toward achieving independence and establishing lifelong connections with caring and committed adults.

(b) Setting and conduct of a nonminor dependent status review hearing

(1)–(2) * * *

(3) The hearing may be attended, as appropriate, by participants invited by the nonminor dependent in addition to those entitled to notice under (c). If delinquency jurisdiction is dismissed in favor of transition jurisdiction under Welfare and Institutions Code section 450, the prosecuting attorney is not permitted to appear at later review hearings for the nonminor dependent.

(4)–(5) * * *

(c) Notice of hearing (§ 295)

* * *

(d) Reports

* * *

(e) Findings and orders

* * *

Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction (§§ 224.1(b), 303, 388(e), 388.1)

(a) Purpose

* * *

(b) Contents of the request

* * *

(c) Filing the request

* * *

(d) Determination of prima facie showing

(1) Within three court days of the filing of form JV-466 with the clerk of the juvenile court of general jurisdiction, a juvenile court judicial officer must review the form JV-466 and determine whether a prima facie showing has been made that the nonminor meets all of the criteria set forth below in (d)(1)(A)–(D) and enter an order as set forth in (d)(2) or (d)(3).

(A) ~~The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement on the date he or she attained 18 years of age, or the nonminor is eligible to seek assumption of dependency jurisdiction pursuant to the provisions of subdivision (c) of section 388.1;~~ The nonminor is eligible to seek assumption of dependency jurisdiction under the provisions of subdivision (c) of section 388.1, or the nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement on the date he or she attained 18 years of age, including a nonminor whose adjudication was vacated under Penal Code section 236.14.

(B)–(D) * * *

(2)–(3) * * *

(e) Appointment of attorney

* * *

(f) Setting the hearing

* * *

(g) Notice of hearing

(1) The juvenile court clerk must serve notice as soon as possible, but no later than five court days before the date the hearing is set, as follows:

(A) The notice of the date, time, place, and purpose of the hearing and a copy of the form JV-466 must be served on the nonminor, the nonminor's attorney, the child welfare services agency, the probation department, or the Indian tribal agency that was supervising the nonminor when the juvenile court terminated its delinquency, dependency, or transition jurisdiction over the nonminor, and the attorney for the child welfare services agency, the probation department, or the Indian tribe. Notice must not be served on the prosecuting attorney if delinquency jurisdiction has been dismissed, and the nonminor's petition is for the court to assume or resume transition jurisdiction under Welfare and Institutions Code section 450.

(B)–(D) * * *

1 (2)–(4) * * *

2

3 **(h) Reports**

4

5 * * *

6

7 **(i) Findings and orders**

8

9 * * *

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CHILD'S NAME: _____	
ORDERS UNDER WELFARE AND INSTITUTIONS CODE SECTIONS 366.24, 366.26, 727.3, 727.31	CASE NUMBER: _____

Child's name: _____	Age: _____	<input type="checkbox"/> Mother	<input type="checkbox"/> Father	
Date of birth: _____				
Parent's name (if known): _____		<input type="checkbox"/> Mother	<input type="checkbox"/> Father	
Parent's name (if known): _____		<input type="checkbox"/> Mother	<input type="checkbox"/> Father	

1. a. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 b. Judicial officer: _____
 c. Parties and attorneys present: _____

2. ☐ The court has read and considered the assessment prepared under Welfare and Institutions Code section 361.5(g), 366.21(i), 366.22(c), 366.25(b), or 727.31(b) and the report and recommendation of the
☐ social worker ☐ probation officer ☐ and other evidence.
3. ☐ The court has considered the wishes of the child, consistent with the child's age, and all findings and orders of the court are made in the best interest of the child.

THE COURT FINDS AND ORDERS

4. a. ☐ Notice has been given as required by law.
 b. ☐ This case involves an Indian child, and the court finds that notice has been given to the parents, Indian custodian, Indian child's tribe, and the Bureau of Indian Affairs (BIA) in accordance with Welfare and Institutions Code section 224.2; the original certified mail receipts, return cards, copies of all notices, and any responses to those notices are in the court file.
5. ☐ **For child 10 years of age or older who is not present:** The child was properly notified under Welfare and Institutions Code section 349(d) of his or her right to attend the hearing, was given an opportunity to be present, and there is no good cause for a continuance to enable the child to be present.
6. ☐ The court takes judicial notice of all prior findings, orders, and judgments in this proceeding.
7. ☐ The court previously made a finding denying or terminating reunification services under Welfare and Institutions Code section 361.5, 366.21, 366.22, 366.25, 727.2, or 727.3, for
☐ parent (name): _____ ☐ Mother ☐ Father
☐ parent (name): _____ ☐ Mother ☐ Father

CHILD'S NAME:	CASE NUMBER:
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8. a. ☐ There is clear and convincing evidence that it is likely the child will be adopted.
- b. ☐ This case involves an Indian child, and the court finds by evidence beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. *(If item 8a or 8b is checked, go to item 9 unless item 10, 11, 12, or 13 is applicable. If item 8a or 8b is not checked, go to item 15 or 16.)* **The fact that the child is not placed in a preadoptive home or with a person or family prepared to adopt the child is not a basis for concluding that the child is unlikely to be adopted.**

9. The parental rights of

- a. ☐ parent (name): ☐ Mother ☐ Father
- b. ☐ parent (name): ☐ Mother ☐ Father
- c. ☐ alleged fathers (names):
- d. ☐ unknown mother ☐ all unknown fathers

are terminated, adoption is the child's permanent plan, and the child is referred to the California Department of Social Services or a local licensed adoption agency for adoptive placement.

- e. **The adoption is likely to be finalized by (date):**

(If item 9 is checked, go to item 17.)

10. This case involves an Indian child. The parental rights of

- a. ☐ parent (name):
- b. ☐ parent (name):
- c. ☐ Indian custodians (names):
- d. ☐ alleged fathers (names):
- e. ☐ unknown mother ☐ all unknown fathers

are modified in accordance with the tribal customary adoption order of the (specify): _____ tribe,
dated _____ and comprising _____ pages, which is accorded full faith and credit and fully incorporated herein.
The child is referred to the California Department of Social Services or a local licensed adoption agency for tribal customary
adoptive placement in accordance with the tribal customary adoption order.

(If item 10 is checked, go to item 17.)

11. ☐ The child is living with a relative who is unable or unwilling to adopt the child because of circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment through legal guardianship. Removal of the child from the custody of his or her relative would be detrimental to the emotional well-being of the child. *(If item 11 is checked, go to item 15 or 16.)*

12. ☐ Termination of parental rights would be detrimental to the child for the following reasons: *(If item 12 is checked, check reasons below and go to item 15 or 16.)*

- a. ☐ The parents or guardians have maintained regular visitation and contact with the child, and the child would benefit from continuing the relationship.
- b. ☐ The child is 12 years of age or older and objects to termination of parental rights.
- c. ☐ The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent a permanent family placement if the parents cannot resume custody when residential care is no longer needed.
- d. ☐ The child is living with a foster parent or Indian custodian who is unable or unwilling to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, but who is willing and capable of providing the child with a stable and permanent environment. Removal of the child from the physical custody of the foster parent or Indian custodian would be detrimental to the emotional well-being of the child.
This clause does not apply to any child who is either

(1) under the age of 6; or

(2) a member of a sibling group with at least one child under the age of 6 and the siblings are or should be placed together.

CHILD'S NAME:	CASE NUMBER:
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12. e. ☐ There would be substantial interference with the child's sibling relationship.
- f. ☐ The child is an Indian child, and there are compelling reasons for determining that termination of parental rights would not be in the best interest of the child, including, but not limited to:
- (1) Termination of parental rights would substantially interfere with the child's connection to his or her tribal community or the child's tribal membership rights.
- (2) The child's tribe has identified guardianship or another permanent plan for the child.
13. ☐ Termination of parental rights would not be detrimental to the child, but no adoptive parent has been identified or is available, and the child is difficult to place because the child (*if item 13 is checked, check reasons below and go to item 14*):
- a. ☐ is a member of a sibling group that should stay together.
- b. ☐ has a diagnosed medical, physical, or mental disability.
- c. ☐ is 7 years of age or older.
14. a. ☐ Termination of parental rights is not ordered at this time. Adoption is the permanent plan, and efforts are to be made to locate an appropriate adoptive family. A report to the court is due by (*date, not to exceed 180 days from the date of this order*):
- (*Do not check in the case of a tribal customary adoption. If item 14a is checked, provide for visitation in items 14b and 14c as appropriate, and go to item 17.*)
- b. ☐ Visitation between the child and
- ☐ parent (*name*): ☐ Mother ☐ Father
- ☐ parent (*name*): ☐ Mother ☐ Father
- ☐ legal guardian (*name*):
- ☐ other (*name*):
- is scheduled as follows (*specify*):
- c. ☐ Visitation between the child and (*names*):
- is detrimental to the child's physical or emotional well-being and is terminated.
15. ☐ The child's permanent plan is legal guardianship.
- ☐ (*Name*):
- is appointed legal guardian of the child, and *Letters of Guardianship* will issue. (*Do not check in case of a tribal customary adoption. If item 15 is checked, provide for visitation in items 15a and 15b as appropriate, and go to item 15c or 15d.*)
- a. ☐ Visitation between the child and
- ☐ parent (*name*): ☐ Mother ☐ Father
- ☐ parent (*name*): ☐ Mother ☐ Father
- ☐ legal guardian (*name*):
- ☐ other (*name*):
- is scheduled as follows (*specify*):
- b. ☐ Visitation between the child and (*names*):
- is detrimental to the child's physical or emotional well-being and is terminated.
- c. ☐ Dependency ☐ Wardship is terminated.
- d. ☐ Dependency ☐ Wardship is not terminated. The likely date for termination of the dependency or wardship is
- (*date*): (*If this item is checked, go to item 17.*)

The juvenile court retains jurisdiction of the guardianship under Welfare and Institutions Code section 366.4.
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CHILD'S NAME:	CASE NUMBER:
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16. a. ☐ The child remains placed with *(name of placement)*:
with a permanent plan of *(specify)*:

(1) ☐ Returning home

(5) ☐ Permanent placement with a fit and willing relative

(2) ☐ Adoption

(6) ☒ Another planned permanent living arrangement

(3) ☐ Tribal customary adoption

(4) ☐ Legal guardianship

The child's permanent plan is likely to be achieved by *(date)*:

(If item 16a is checked, provide for visitation in items 16b and 16c as appropriate, and go to item 17.)

b. ☐ Visitation between the child and

☐ parent *(name)*:

☐ Mother

☐ Father

☐ parent *(name)*:

☐ Mother

☐ Father

☐ legal guardian *(name)*:

☐ other *(name)*:

is scheduled as follows *(specify)*:

c. ☐ Visitation between the child and *(names)*:

is detrimental to the child's physical or emotional well-being and is terminated.

17. ☐ The child's placement is necessary.

18. ☐ The child's placement is appropriate.

19. ☐ The agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent plan. If this case involves an Indian child, the court finds that the agency has made active efforts to provide remedial and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful.

20. ☐ The services set forth in the case plan include those needed to assist the child age 14 or older in making the transition from foster care to successful adulthood. *(This finding is required only for a child 14 years of age or older.)*

21. ☐ The child remains a ☐ dependent ☐ ward of the court. *(If this box is checked, go to items 22 and 23 if applicable, and items 24 and 25.)*

22. ☐ All prior orders not in conflict with this order will remain in full force and effect.

23. ☐ Other *(specify)*:

24. ☐ Next hearing date:

Time:

Dept:

Room:

a. ☐ Continued hearing under section 366.26 for receipt of report on attempts to locate an adoptive family

b. ☐ Continued hearing under section 366.24(c)(6) for receipt of the tribal customary adoption order

c. ☐ Six-month postpermanency review

CHILD'S NAME:	CASE NUMBER:
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25. The ☐ Parent (*name*): ☐ Mother ☐ Father
☐ Parent (*name*): ☐ Mother ☐ Father
☐ Indian custodian (*name*):
☐ Child
☐ Other (*name*):

have been advised of their appeal rights (under Cal. Rules of Court, rule 5.590).

Date: _____

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 by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
NONMINOR'S NAME: NONMINOR'S DATE OF BIRTH: HEARING DATE AND TIME: DEPT:		
FINDINGS AND ORDERS AFTER HEARING TO CONSIDER TERMINATION OF JUVENILE COURT JURISDICTION OVER A NONMINOR		
Judicial Officer:	Court Clerk:	Court Reporter:
Bailiff:	Other Court Personnel:	Interpreter: Language:

- | | Present | Attorney (name) | Present |
|--|--------------------------|-----------------|--------------------------|
| 1. Parties (name) | | | |
| a. Nonminor: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 2. Parent | | | |
| a. <input type="checkbox"/> Father <input type="checkbox"/> Mother (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. <input type="checkbox"/> Father <input type="checkbox"/> Mother (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 3. Legal guardian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 4. Indian custodian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 5. Tribal representative (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 6. Others present | | | |
| a. Other (name): | | | |
| b. Other (name): | | | |
| c. Other (name): | | | |
| 7. The court has read and considered and admits into evidence | | | |
| a. <input type="checkbox"/> The report of the social worker dated: | | | |
| b. <input type="checkbox"/> The report of the probation officer dated: | | | |
| c. <input type="checkbox"/> Other (specify): | | | |
| d. <input type="checkbox"/> Other (specify): | | | |
| e. <input type="checkbox"/> Other (specify): | | | |

NONMINOR'S NAME:	CASE NUMBER:
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BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

Findings

8. ☐ Notice of the date, time, and location of the hearing was given as required by law.
9. ☐ The nonminor is neither present in court nor participating by telephone and
 - a. ☐ the nonminor expressed a wish not to appear for the hearing and did not appear.
 - b. ☐ the nonminor's current location is unknown. Reasonable efforts ☐ were ☐ were not made to find him or her.
10. ☐ The nonminor had the opportunity to confer with his or her attorney about the issues currently before the court.
11. Remaining under juvenile court jurisdiction ☐ is ☐ is not in the nonminor's best interests. The facts supporting this determination were stated on the record.
12. a. ☐ The nonminor does not now meet any of the eligibility criteria in Welfare and Institutions Code, § 11403(b), to remain in foster care as a nonminor dependent under juvenile court jurisdiction.
- b. ☐ The nonminor meets the following criteria in Welfare and Institutions Code, § 11403(b), to remain in foster care as a nonminor dependent under juvenile court jurisdiction.
 - (1) ☐ The nonminor attends high school or a high school equivalency certificate (GED) program.
 - (2) ☐ The nonminor attends a college, a community college, or a vocational education program.
 - (3) ☐ The nonminor attends a program or takes part in activities that will promote employment or overcome barriers to employment.
 - (4) ☐ The nonminor is employed at least 80 hours per month.
 - (5) ☐ The nonminor is incapable of doing any of the activities in (1)–(4) due to a medical condition.
13. ☐ The nonminor has an application pending for title XVI Supplemental Security Income benefits, and the continuation of juvenile court jurisdiction until a final decision has been issued to ensure continued assistance with the application process ☐ is ☐ is not in the nonminor's best interests.
14. ☐ The nonminor has an application pending for Special Immigrant Juvenile status or other immigration relief for which an active juvenile court case is required.
15. ☐ The nonminor was informed of the options available to make the transition from foster care to independence and successful adulthood.
16. ☐ The potential benefits of remaining in foster care under juvenile court jurisdiction were explained to the nonminor, and the nonminor has stated that he or she understands those benefits.
17. ☐ The nonminor was informed that if juvenile court jurisdiction is continued, he or she may have the right to have that jurisdiction terminated and that if jurisdiction is then terminated, the court will maintain general jurisdiction for the purpose of reviewing a request to resume jurisdiction over him or her as a nonminor dependent.
18. ☐ The nonminor was informed that if juvenile court jurisdiction is terminated, he or she has the right to file a petition asking the court to resume dependency jurisdiction or transition jurisdiction over him or her as a nonminor dependent as long as he or she has not yet reached 21 years of age.
19. a. ☐ The nonminor was provided with the information, documents, and services required under Welfare and Institutions Code, § 391(e), and a completed *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365) was filed with this court.
- b. ☐ The nonminor cannot be located despite the department's reasonable efforts, and for that reason the nonminor was not provided with the information, documents, services, and form specified in item 19a.
20. ☐ The nonminor is subject to delinquency jurisdiction and either was previously a dependent of the court under section 300 or was placed in foster care under section 727. The requirements of Welfare and Institutions Code, § 607.5, ☐ were ☐ were not met.

NONMINOR'S NAME:	CASE NUMBER:
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21. ☐ The nonminor is an Indian child under the Indian Child Welfare Act and ☐ was ☐ was not informed of his or her right to choose whether the Act will continue to apply to him or her as a nonminor dependent.
- ☐ The nonminor ☐ wants ☐ does not want the Indian Child Welfare Act to continue to apply.
22. a. ☐ The Transitional Independent Living Case Plan includes a plan for a placement the nonminor believes is consistent with his or her need to gain independence, reflects agreements made to obtain independent living skills, and sets out benchmarks that indicate how the nonminor and social worker or probation officer will know when independence can be achieved.
- b. ☐ The Transitional Independent Living Plan identifies the nonminor's level of functioning, emancipation goals, and specific skills he or she needs to prepare for successful adulthood upon leaving foster care.
- c. ☐ The 90-day Transition Plan is a concrete, individualized plan that specifically covers housing, health insurance, education, local opportunities for mentors and continuing support services, workforce supports and employment services, and information that explains how and why to designate a power of attorney for health care.

Orders

23. ☐ The nonminor dependent's continued placement is necessary.
24. ☐ The nonminor dependent's continued placement is no longer necessary.
25. ☐ The nonminor dependent's current placement is appropriate.
26. ☐ The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.
27. ☐ The nonminor dependent's Transitional Independent Living Case Plan ☐ does ☐ does not include appropriate and meaningful independent living skill services that will help the youth transition from foster care to successful adulthood.
28. ☐ The county agency ☐ has ☐ has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare him or her for independence.
29. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been ☐ excellent ☐ satisfactory ☐ minimal.
- b. ☐ The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in his or her efforts to attain those goals were stated on the record.
30. The likely date by which it is anticipated the nonminor dependent will achieve successful adulthood is:
31. ☐ The nonminor meets at least one of the conditions listed in item 12(b)(1)–(5) and juvenile court jurisdiction over the youth as a nonminor dependent is continued.

The nonminor's permanent plan is

- (1) ☐ Return home
- (2) ☐ Adoption
- (3) ☐ Tribal customary adoption
- (4) ☐ Placement with a fit and willing relative
- (5) ☐ Another planned permanent living arrangement
- (6) ☐ Other (specify):

- a. ☐ For a nonminor placed in another planned permanent living arrangement, the court has considered the evidence before it and finds that another planned permanent living arrangement is still the best permanent plan because:

- (1) ☐ The nonminor is 18 or older.
- (2) ☐ Other (specify):

NONMINOR'S NAME:

CASE NUMBER:

The compelling reasons why other permanent plan options are not in the nonminor's best interest are:

(1) ☐ The nonminor wants to live independently.

(2) ☐ Other (specify):

b. ☐ Family reunification services are continued.

c. The Indian Child Welfare Act ☐ does ☐ does not continue to apply.

d. The matter is set for further hearing.

32. ☐ The nonminor does not meet and does not intend to meet the eligibility criteria for status as a nonminor dependent but is otherwise eligible to and will remain under the juvenile court's jurisdiction in a foster care placement, and the matter is set for a status review hearing on the date indicated in item 37, which is within six months of the nonminor's most recent status review hearing.

33. ☐ Reasonable efforts were made to find the nonminor, and his or her location remains unknown. **Juvenile court jurisdiction over the nonminor is terminated.** The nonminor remains under the general jurisdiction of the juvenile court for the purpose of its considering a petition filed under Welfare and Institutions Code, § 388(e) or 388.1, to resume dependency jurisdiction or to assume or resume transition jurisdiction over him or her as a nonminor dependent.

34. ☐ The nonminor

a. ☐ does not meet the eligibility criteria for status as a nonminor dependent and is not otherwise eligible to remain under juvenile court jurisdiction;

b. ☐ meets the eligibility criteria for status as a nonminor dependent but does not wish to remain under juvenile court jurisdiction as a nonminor dependent; or

c. ☐ meets the eligibility criteria for status as a nonminor dependent but is not participating in a reasonable and appropriate Transitional Independent Living Case Plan; and

the findings required in items 10, 16, 19a, and 22c of this form were made, and the nonminor was given an endorsed, filed copy of the *Termination of Juvenile Court Jurisdiction—Nonminor* (form JV-365). **Juvenile court jurisdiction over the nonminor is terminated.** The nonminor remains under the general jurisdiction of the juvenile court for the purpose of its considering a petition filed under Welfare and Institutions Code, § 388(e) or 388.1, to resume dependency jurisdiction or to assume or resume transition jurisdiction over him or her as a nonminor dependent.

35. ☐ The nonminor is 21 years of age or older and no longer subject to the jurisdiction of the juvenile court under section 303. The findings required by items 19 and 22c were made. **Juvenile court jurisdiction over the nonminor is dismissed.** The attorney for the nonminor is relieved 60 days from today's date.

36. ☐ Other findings and orders

a. See attachment 36a.

NONMINOR'S NAME:	CASE NUMBER:
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b. Other (*specify*):

37. ☐ The next hearing is scheduled as follows:

Hearing date:	Time:	Dept.:	Room:
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- a. ☐ Nonminor dependent review hearing (Welf. & Inst. Code, § 366(f); Cal. Rules of Court, rule 5.903)
- b. ☐ Other (*specify*):

38. Number of pages attached: _____

Date:

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 by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____		
NONMINOR'S NAME: _____ NONMINOR'S DATE OF BIRTH: _____ HEARING DATE AND TIME: _____		
FINDINGS AND ORDERS AFTER NONMINOR DEPENDENT STATUS REVIEW HEARING		
CASE NUMBER: _____		
Judicial Officer: _____	Court Clerk: _____	Court Reporter: _____
Baliff: _____	Other Court Personnel: _____	Interpreter: _____ Language: _____

- | | | | | |
|---------------------------------|--------------------------|--|------------------|--------------------------|
| 1. Parties (name): | Present | | Attorney (name): | Present |
| a. Nonminor dependent: | <input type="checkbox"/> | | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | | <input type="checkbox"/> |
2. Tribal representative (name): _____
3. Others present in courtroom
- a. Other (specify): _____
- b. Other (specify): _____
- c. Other (specify): _____
- d. Other (specify): _____
4. **The court has read, and considered, and admits into evidence:**
- a. ☐ Report of social worker dated: _____
- b. ☐ Report of probation officer dated: _____
- c. ☐ Other (specify): _____
- d. ☐ Other (specify): _____

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

5. Notice of the date, time, and location of the hearing was given as required by law.
6. ☐ **The nonminor dependent's continued placement is necessary.**
7. ☐ **The nonminor dependent's continued placement is no longer necessary.**
8. ☐ The nonminor dependent's current placement is appropriate.
9. ☐ The nonminor dependent's current placement is not appropriate. The county agency and the nonminor dependent must work collaboratively to locate an appropriate placement.

NONMINOR'S NAME:	CASE NUMBER:
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10. ☐ The nonminor dependent's Transitional Independent Living Case Plan does include a plan for him or her to satisfy at least one of the criteria in Welfare and Institutions Code section 11403(b) to remain in foster care under juvenile court jurisdiction as indicated below:
- ☐ Attending high school or a high school equivalency certificate (GED) program.
 - ☐ Attending a college, a community college, or a vocational education program.
 - ☐ Attending a program or participating in an activity that will promote or help remove a barrier to employment.
 - ☐ Employed at least 80 hours per month.
 - ☐ The nonminor dependent is not able to attend a high school, a high school equivalency certificate (GED) program, a college, a community college, a vocational education program, or an employment program or activity or to work 80 hours per month due to a medical condition.
11. ☐ The county agency ☐ has ☐ has not made reasonable efforts and provided assistance to help the nonminor dependent establish and maintain compliance with one of the conditions in Welfare and Institutions Code section 11403(b).
12. ☐ The nonminor dependent ☐ was ☐ was not provided with the information, documents, and services as required under Welfare and Institutions Code section 391(e).
13. ☐ The Transitional Independent Living Case Plan ☐ was ☐ was not developed jointly by the nonminor dependent and the county agency.
14. ☐ For the nonminor dependent who has elected to have the Indian Child Welfare Act continue to apply, the representative from his or her tribe ☐ was ☐ was not consulted during the development of the nonminor dependent's Transitional Independent Living Case Plan.
15. ☐ The nonminor dependent's Transitional Independent Living Case Plan ☐ does ☐ does not reflect the living situation and services consistent, in the nonminor dependent's opinion, with what he or she needs to achieve successful adulthood and set out benchmarks that indicate how both the county agency and nonminor dependent will know when successful adulthood can be achieved.
16. ☐ The nonminor dependent's Transitional Independent Living Case Plan ☐ does ☐ does not include appropriate and meaningful independent living skill services that will help the youth transition from foster care to successful adulthood.
17. ☐ The county agency ☐ has ☐ has not made reasonable efforts to comply with the nonminor dependent's Transitional Independent Living Case Plan, including efforts to finalize the youth's permanent plan and prepare him or her for independence.
18. ☐ The county agency ☐ has ☐ has not made ongoing and intensive efforts to finalize the permanent plan.
19. ☐ The nonminor dependent ☐ did ☐ did not sign and receive a copy of his or her Transitional Independent Living Case Plan.
20. a. The extent of progress made by the nonminor dependent toward meeting the Transitional Independent Living Case Plan goals has been ☐ excellent ☐ satisfactory ☐ minimal.
- b. ☐ The modifications to the Transitional Independent Living Case Plan goals needed to assist the nonminor dependent in his or her efforts to attain those goals were stated on the record.
21. ☐ The county agency ☐ has ☐ has not exercised due diligence to locate an appropriate relative with whom the nonminor could be placed. Each relative whose name has been submitted to the department ☐ has ☐ has not been evaluated.
22. ☐ The county agency ☐ has ☐ has not made reasonable efforts to maintain relations between the nonminor dependent and individuals who are important to him or her, including efforts to establish and maintain relationships with caring and committed adults who can serve as lifelong connections.
23. ☐ The county agency ☐ has ☐ has not made reasonable efforts to establish or maintain the nonminor dependent's relationship with his or her siblings who are under juvenile court jurisdiction.
24. The likely date by which it is anticipated the nonminor dependent will achieve successful adulthood is:
25. ☐ It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under rule 5.555 of the California Rules of Court is ordered.

NONMINOR'S NAME:

CASE NUMBER:

26. ☐ At a hearing under rule 5.555 of the California Rules of Court held on the date below, the juvenile court entered the findings and orders as recorded on the *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367), and juvenile court jurisdiction is terminated under those findings and orders.

27. ☐ Juvenile court jurisdiction over the youth as a nonminor dependent is continued and

a. ☐ The youth's permanent plan is:

(1) ☐ Return home

(2) ☐ Adoption

(3) ☐ Tribal customary adoption

(4) ☐ Placement with a fit and willing relative

(5) ☐ Another planned permanent living arrangement

(6) ☐ Other (specify):

b. ☐ For nonminors placed in another planned permanent living arrangement, the court has considered the evidence before it and finds that another planned permanent living arrangement is still the best permanent plan because:

(1) ☐ The nonminor is 18 or older.

(2) ☐ Other (specify):

The compelling reasons why other permanent plan options are not in the nonminor's best interest are:

(1) ☐ The nonminor wants to live independently.

(2) ☐ Other (specify):

c. ☐ Family reunification services are continued.

d. The matter is continued for a hearing set under Welfare and Institutions Code section 366.31, and rule 5.903 of the California Rules of Court within the next six months.

28. All prior orders not in conflict with this order remain in full force and effect.

29. ☐ Other findings and orders

a. ☐ See attachment 29a.

b. ☐ (Specify):

30. ☐ Additional findings and orders for nonminor dependent with case plan of continued family reunification services

a. The agency ☐ has ☐ has not complied with the case plan by making reasonable efforts to create a safe home for the nonminor dependent to reside in and to complete whatever steps are necessary to finalize the permanent plan.

b. The extent of progress made toward alleviating or mitigating the causes necessitating the current out-of-home placement has been

(1) ☐ by the father:

(2) ☐ by the mother:

(3) ☐ by the nonminor:

(4) ☐ other (specify):

c. The likely date by which the nonminor dependent may safely reside in the family home or achieve successful adulthood is:

d. (1) ☐ The nonminor can safely reside in the family home and may return to the family home.

(a) ☐ The court maintains jurisdiction under Welfare and Institutions Code section 303(a) and a review hearing under Welfare and Institutions Code section 366.31 is ordered.

(b) ☐ It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under Welfare and Institutions Code section 391 and rule 5.555 of the California Rules of Court is ordered.

NONMINOR'S NAME:	CASE NUMBER:
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30. d. (2) ☐ The nonminor cannot safely reside in the family home, and reunification services are continued.
- (a) ☐ The nonminor dependent and parent(s) of guardian(s) are in agreement with the continuation of reunification services.
 - (b) ☐ Continued reunification services are in the best interest of the nonminor dependent.
 - (c) ☐ There is a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
 - (d) ☐ The matter is continued for a review hearing under Welfare and Institutions Code section 366.31 and rule 5.903 of the California Rules of Court within the next six months.
- (3) ☐ The nonminor cannot safely reside in the family home and reunification services are terminated (*check all that apply*).
- (a) ☐ The nonminor dependent and parent(s) or guardian(s) are not in agreement with the continuation of reunification services.
 - (b) ☐ Continued reunification services are not in the best interest of the nonminor dependent.
 - (c) ☐ There is not a substantial probability that the nonminor dependent will be able to safely reside in the family home by the next review hearing.
31. ☐ Additional findings and orders for nonminor residing in the home of a parent or former legal guardian
- a. (1) ☐ It appears that juvenile court jurisdiction over the nonminor may no longer be necessary, and a hearing to consider termination of juvenile court jurisdiction under Welfare and Institutions Code section 391 and rule 5.555 of the California Rules of Court is ordered.
 - (2) ☐ Court supervision and juvenile court jurisdiction continues to be necessary. The court maintains jurisdiction under Welfare and Institutions Code section 303(a). The matter is continued for a review hearing under Welfare and Institutions Code section 366.31 and rule 5.903 of the California Rules of Court within the next six months.
 - b. ☐ The county agency ☐ has ☐ has not complied with the case plan by making reasonable efforts to maintain a safe family home for the nonminor.
 - c. ☐ The county agency ☐ has ☐ has not complied with the nonminor's Transitional Independent Living Case Plan, including efforts to prepare the nonminor for successful adulthood.

32. The next hearings are scheduled as follows:

- a. ☐ Nonminor dependent status review hearing (Wel. & Inst. Code, § 366.31; Cal. Rules of Court, rule 5.903)

Hearing date:	Time:	Dept:	Room:
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- b. ☐ Hearing to consider termination of jurisdiction under rule 5.555 of the California Rules of Court.

Hearing date:	Time:	Dept:	Room:
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- c. ☐ Other (*specify*):

Hearing date:	Time:	Dept:	Room:
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33. Number of pages attached: _____

Date: _____

JUDICIAL OFFICER

JV-464-INFO**How to Ask to Return to Juvenile Court
Jurisdiction and Foster Care**

Some 18-, 19-, and 20-year-olds can reopen their court case and return to foster care. This form explains:

- The benefits of returning to foster care,
- Who qualifies to return to foster care, and
- How to ask to reopen your court case and return to a foster care placement.

What benefits can I get if I return to foster care?

If you ask the court to reopen your court case and return to foster care as a nonminor dependent, you can get money to live in supervised foster care. You may be able to live in a:

- Relative's home;
- Home of a nonrelated extended family member (a person close to your family but not related to you);
- Foster home;
- Group home if you need to because of a medical condition;
- You can also stay in a group home until your 19th birthday or until you finish high school, whichever one happens first; or
- Supervised independent living setting, such as an apartment or college dormitory.

You can also get:

- A clothing allowance,
- Case management services, and
- Independent Living Program services.

Do I qualify to return to juvenile court jurisdiction and foster care?

You qualify if you meet these requirements:

☐ **Court Jurisdiction Requirements**

- You are now 18, 19, or 20 years old and either:
 - You were in foster care on your 18th birthday and your case was vacated (Pen. Code § 236.14); or,
 - You were in foster care on your 18th birthday.*
- OR**
- You were placed by the juvenile court in a guardianship or adoption; and
 - Your guardian(s) or adoptive parent(s) were receiving payments for your support on or after your 18th birthday; and

- Your guardian(s) or adoptive parent(s) died on or after your 18th birthday, or they no longer support you and no longer receive payments for your support.

**Even if you were on the run, you can qualify if there was an order for you to be in foster care at the time.*

☐ **Work/School Requirements**

You must plan to do one of the following:

- Finish high school or get a high school equivalency (GED) certificate.
- Attend college or community college.
- Attend a vocational education program.
- Attend a program or do activities that will help you get a job.
- Get a job.

Exception: If you have a medical problem that makes you unable to do any of these things, you do not have to be in school, a program, or working.

☐ **Sign an Agreement to Return to Foster Care**

You and a social worker (SW) or probation officer (PO) must have signed a Voluntary Reentry Agreement that says:

- You want to return to foster care to be placed in a supervised setting.
- The SW or PO will be responsible for your placement and care.
- Together, you and the SW or PO will make a plan that helps you to learn how to live independently.
- If you ask the SW or PO to file your court papers, you will cooperate with the SW or PO.
- If your situation changes and you no longer qualify to stay in foster care, you will tell the SW or PO.

Important! Even if you are not sure you qualify, you should still apply.

When can I get help to find housing?

As soon as you sign the agreement to return to foster care, your social worker or probation officer can help you find housing and other services you may need.



How do I ask the juvenile court to reopen my court case and return to foster care?

You must fill out and file the court form JV-466, *Request to Return to Juvenile Court Jurisdiction and Foster Care*. This form tells the court you want to reopen your court case and return to foster care. A SW at the child welfare department or a PO at the probation department that supervised you when you were in foster care can help you fill out the form and file it for you.

If you want to fill out the form yourself, you can find a lot of the information you need on form JV-365, *Termination of Juvenile Court Jurisdiction—Nonminor*, which the court gave you when you left foster care.

Where can I get the form I need to fill out?

The court may have already given you the form when your foster care ended. Or you can get the form at:

- Your county's courthouse or public library, or
- The California Courts website:
www.courts.ca.gov/forms.htm.

What if I need help with the form?

If you want help to fill out the form, ask:

- A SW at the child welfare department or a PO at the probation department that supervised you when you were in foster care,
- The person who was your lawyer when you were in foster care, or
- An adult you trust.

What do I do with my completed form?

After you and the SW or PO have signed the Voluntary Reentry Agreement, you can:

- File the form yourself, or
- Ask the SW or PO to file the form for you.

Note: If you file it yourself, your court hearing will be about three weeks sooner.

Where do I file my completed form?

You can file it by mail or in person at the juvenile court clerk's office at the courthouse in the county where your court case was closed; or,

You can submit it by mail or in person at the juvenile court clerk's office in the county where you live. The clerk will send it to the juvenile court clerk's office at the courthouse in the county where your court case was closed.

If you file by mail because you live outside of California, you must send it to the juvenile court clerk's office at the courthouse in the county where your court case was closed.

Important! Keep a copy of all papers you file at court. If you file in person, the clerk can give you free copies.

Do I have to pay to file the form?

No. It's free.

Do I have to fill out other court forms?

No, unless you want to keep your contact information private. If so, do **not** put your address and other contact information on form JV-466. Instead, put it on form JV-468, *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care*.

Who will decide if I can return to juvenile court jurisdiction and foster care?

A judge with the court in the county where your court case was closed will decide if your court case should be reopened.

The judge can decide that:

- **You do not qualify** because of your age. If this happens, you cannot file another request.
- **The information you gave to the court** shows that you do not meet one of the eligibility requirements or the court needs more information to decide your case. If this happens, the court will deny your request and send you a letter explaining why your request was denied. The court will also send you a list of lawyers who can help you with your case. You can file another request that includes the information that was missing.
- **The court has enough information** to decide your case and wants you to come to a court hearing. If this happens, you will get a notice telling you the date, time, and place of your hearing. The court will also assign a lawyer to speak for you at the hearing.

The court will send a copy of the notice and your papers to:

- The lawyer assigned to your case, and
- The office that supervised you when the juvenile court's jurisdiction was dismissed. That office must make a report about your eligibility to return to foster care.

If you ask for it on the form JV-466, the court can also send a notice to your parents or former legal guardian and the CASA office for your former CASA.

When will the hearing happen?

If you filed your court papers yourself and the court decides there is enough information to decide your case, the hearing will happen about three weeks after you filed your court papers.

If you asked a social worker or probation officer to file your court papers and the court decides there is enough information to decide your case, the hearing will happen about six weeks after you ask the social worker or probation officer to file your court papers.

What happens at the hearing?

At your hearing, the judge will review the evidence and decide your case.

If the court decides you meet the requirements, you will be allowed to return to foster care. You will also have to go back to court within 6 months to tell the court how you are doing. Your lawyer will also go with you to that hearing. If you used to be a dependent, you will be under the juvenile court's dependency jurisdiction.

If you used to be a ward, you will be under the juvenile court's transition jurisdiction.

If the court denies your request, you can file another request later if your situation changes so that you meet the requirements.

**Request to Return to Juvenile Court
Jurisdiction and Foster Care**

Clerk stamps date here when form is filed.

This form can be used to ask the court to reopen your case because your situation changed and you decide that you want to return to the court's jurisdiction and a foster care placement.

If you don't want other people (for example, a parent or brother or sister who was part of your case when you were a child) to know your contact information, do not write it in ①. Write that information on form JV-468, *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care*. Read form JV-464-INFO, *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care*, for information about filling out and filing the forms.

If you do not know the information asked for on this form, leave the space blank. Remember to get and keep copies of all court papers and other papers you sign or receive from the child welfare services agency or the probation department.

DRAFT
Not approved by
the Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Name:

Court fills in case number when form is filed.

Case Number:**① My information:**

- a. My address: _____
- b. My city, state, zip code: _____
- c. My area code and telephone number: _____
- d. My date of birth: _____

② The location of the juvenile court that had authority over me when I was 18 years old or when my guardianship or adoption was finalized:

- a. City: _____
- b. County: _____

③ The name and court file number or case number of my case in juvenile court:

- a. Name of my case: _____
- b. Court file number or case number: _____

④ a. The date the juvenile court closed my case: _____

- b. ☐ My arrest was expunged and my adjudication vacated based on Penal Code section 236.14.

⑤ I need help to keep or find an appropriate place to live.

- ☐ I need a placement right now.

⑥ Voluntary Reentry Agreement with child welfare services or the probation department to return to foster care:

- ☐ I agree to sign a Voluntary Reentry Agreement for a supervised placement.
- ☐ I signed a Voluntary Reentry Agreement for a supervised placement on (date): _____ with
 - ☐ Child welfare services.
 - ☐ Probation department.



Your name: _____

Case Number: _____

- 7 You must plan to meet at least one of the five conditions listed below.
Please check all that apply:
- a. ☐ I plan to attend a high school or a high school equivalency certificate (GED) program.
 - b. ☐ I plan to attend a college, a community college, or a vocational education program.
 - c. ☐ I plan to attend a program or take part in activities that will help train me to be employed or will help me solve problems that prevented me from finding a job.
 - d. ☐ I plan to work at least 80 hours per month.
 - e. ☐ I cannot go to a high school, a high school equivalency certificate (GED) program, a college, a community college, or a vocational education program; take part in a program or activities to help me find a job; or work 80 hours per month because of a medical condition.
- 8 If you were in a guardianship on your 18th birthday or adopted from foster care, please check all that apply below. If not, skip to 9.
- a. ☐ I was placed by the juvenile court in a guardianship.
 - b. ☐ I was adopted from foster care.
 - c. ☐ My guardian(s) or adoptive parent(s) were receiving payments for my support on or after my 18th birthday.
 - d. ☐ My guardian(s) or adoptive parent(s) died on or after my 18th birthday.
 - e. ☐ My guardian(s) or adoptive parent(s) are no longer supporting me.
 - f. ☐ My guardian(s) or adoptive parent(s) no longer receive payments for my support.
- 9 The judge will set a hearing about this request if the judge thinks that he or she has enough information to decide whether you have met all the requirements.
- Do you want your parents or former legal guardian to be told about the hearing, if the judge sets one?
- ☐ NO. I do not want my parents or former legal guardian to be told about the hearing.
- ☐ YES. I do want my parents or former legal guardian to be told about the hearing. Their names and addresses are:
- Parent's name and address: _____
- _____
- Parent's name and address: _____
- _____
- Former legal guardian's name and address: _____
- _____
- 10 The judge will give you a free lawyer to help before and during the hearing. If you want the lawyer who represented you when you were a dependent, ward, or nonminor dependent, please write the lawyer's name and telephone number on the line below, and if that lawyer is available, the court will appoint him or her to help you before and during the hearing.
- Name and telephone number of the lawyer who used to represent me and who I want to represent me again:
- _____
- _____



Your name: _____

Case Number: _____

11 Did you have a Court Appointed Special Advocate (CASA)?

☐ NO. I did not have a CASA.

☐ YES. I did have a CASA.

Would you like the CASA to be told about the hearing if the judge schedules a hearing?

☐ NO. I do not want the CASA to be told about the hearing.

☐ YES. I want the CASA to be told about the hearing. The name of the person who was my CASA is: _____

12 Did the Indian Child Welfare Act apply to you when you were under juvenile court jurisdiction as a child?

a. ☐ NO. The Indian Child Welfare Act did not apply to me.

b. ☐ YES. The Indian Child Welfare Act did apply to me.

Would you like to have the Indian Child Welfare Act apply to you as a nonminor dependent?

(1) ☐ NO. I do not want the Indian Child Welfare Act to apply to me.

(2) ☐ YES. I do want the Indian Child Welfare Act to apply to me. The name of my tribe and the name, address, and telephone number of my tribal representative is: _____

c. ☐ I DO NOT KNOW if the Indian Child Welfare Act applied to me.

(1) ☐ I am or may be a member of, or eligible for membership in, a federally recognized Indian tribe.

Name of tribe(s) (*name each*):

Name of band (*if applicable*):

(2) ☐ I may have Indian ancestry.

Name of tribe(s) (*name each*):

Name of band (*if applicable*):

(3) ☐ I have no Indian ancestry as far as I know.

13 Your verification:

I declare under penalty of perjury under the laws of the State of California that the information on this form, all attachments, and form JV-468, *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care*, if filed, is true and correct to my knowledge. I understand that this means I am guilty of a crime if I lie on this form, any of the attachments, or any other form I file.

Date: _____

Type or print your name



Sign your name



Your name: _____

Case Number:

14 Verification by nonminor's representative:

The nonminor is unable to provide verification due to a medical condition. I declare under penalty of perjury under the laws of the State of California that the information on this form, all attachments, and form JV-468, *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care*, if filed, is true and correct to my knowledge. I understand that this means I am guilty of a crime if I lie on this form, any of the attachments, or any other form I file.

Date: _____

Type or print your name



Sign your name

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
NONMINOR'S NAME:	
FINDINGS AND ORDERS REGARDING PRIMA FACIE SHOWING ON NONMINOR'S REQUEST TO REENTER FOSTER CARE	
CASE NUMBER:	

Findings and Orders: Prima Facie Showing Made

1. The court has read and considered
 - a. ☐ Request to Return to Juvenile Court Jurisdiction and Foster Care (form JV-466) filed by (name):
on (date):
 - b. ☐ Other (specify):
 - c. ☐ Other (specify):
2. ☐ The court finds that a prima facie showing has been made that
 - a. The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she was 18 years of age, based on an adjudication that was vacated under Penal Code section 236.14; or
 - b. The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.
 - c. The nonminor is under 21 years of age.
 - d. The nonminor wants assistance to maintain or secure an appropriate, supervised placement or is in need of immediate placement and agrees to a supervised placement under a voluntary reentry agreement.
 - e. The nonminor intends to satisfy at least one of the conditions described in Welfare and Institutions Code section 11403(b) as follows (check all that apply):
 - (1) ☐ Attending high school or a high school equivalency certificate (GED) program
 - (2) ☐ Attending a college, community college, or vocational education program
 - (3) ☐ Attending a program or participating in an activity that will promote or help remove a barrier to employment
 - (4) ☐ Employed for at least 80 hours per month
 - (5) ☐ Unable to attend high school, a GED program, college, community college, a vocational education program, or an employment program or activity, or to work 80 hours per month due to a medical condition
- 3 **The court orders the following:**
 - a. The nonminor's request to return to foster care is set for hearing on (specify date within 15 days of the date form JV-466 was filed):
 - b. An attorney is appointed to represent the nonminor solely for the hearing on the request.
 - c. ☐ Other orders:

Findings and Orders: Prima Facie Showing Not Made

4. The court has read and considered
 - a. ☐ Request to Return to Juvenile Court Jurisdiction and Foster Care (form JV-466) filed by (name):
on (date):

NONMINOR'S NAME:

CASE NUMBER:

4. b. ☐ Other (specify):
 c. ☐ Other (specify):
5. ☐ The court finds that a prima facie showing has not been made. The nonminor's request to return to foster care is denied because (check all that apply)
- a. ☐ The nonminor was not previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.
 - b. ☐ The nonminor is 21 years of age or older.
 - c. ☐ The nonminor does not want assistance to maintain or secure an appropriate, supervised placement or does not agree to a supervised placement under a voluntary reentry agreement.
 - d. ☐ The nonminor does not intend to satisfy at least one of the conditions described in Welfare and Institutions Code section 11403(b), and stated below:
 - (1) Attending high school or a high school equivalency certificate (GED) program
 - (2) Attending a college, community college, or vocational education program
 - (3) Attending a program or participating in an activity that will promote or help remove a barrier to employment
 - (4) Being employed for at least 80 hours per month
 - (5) Unable to attend high school, a GED program, college, community college, a vocational education program, or an employment program or activity or to work 80 hours per month due to a medical condition
 - e. ☐ Other (specify reason for denial):
6. The nonminor may file a new request when the issues are resolved.
7. The court clerk must serve on the nonminor the following documents:
- a. A copy of the written order
 - b. Blank copies of *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466) and *Confidential Information—Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-468)
 - c. A copy of *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-464-INFO)
 - d. The names and contact information of attorneys approved by the court to represent children in juvenile court proceedings who have agreed to provide a consultation to nonminors whose requests are denied due to the failure to make a prima facie showing

Date:

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 by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
NONMINOR'S NAME:		
FINDINGS AND ORDERS AFTER HEARING TO CONSIDER NONMINOR'S REQUEST TO REENTER FOSTER CARE		
Judicial Officer:	Court Clerk:	Court Reporter:
Bailiff:	Other Court Personnel:	Interpreter: Language:

- | | | | |
|---------------------------------|--------------------------|-------------------------|--------------------------|
| 1. Parties (name) | <u>Present</u> | <u>Attorney (name):</u> | <u>Present</u> |
| a. Nonminor dependent: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |

2. Others present
- a. Other (specify):
- b. Other (specify):
- c. Other (specify):

3. The court has read and considered and admits into evidence

- a. ☐ report of social worker dated:
- b. ☐ report of probation officer dated:
- c. ☐ other (specify):
- d. ☐ other (specify):
- e. ☐ other (specify):

Court Grants Request

4. ☐ **The court makes the findings stated below:**
- a. Notice of the date, time, and location of the hearing was given as required by law.
- b. The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age ☐ and his or her adjudication was vacated under Penal Code section 236.14.
- c. The nonminor is under 21 years of age.
- d. The nonminor intends to satisfy a condition or conditions under Welfare and Institutions Code section 11403(b).
- e. The condition or conditions under Welfare and Institutions Code section 11403(b) that the nonminor intends to satisfy is/are (check all that apply):
- (1) ☐ Attending high school or a high school equivalency certificate (GED) program

NONMINOR'S NAME:	CASE NUMBER:
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4. e. (2) ☐ Attending a college, community college, or vocational education program
 (3) ☐ Attending a program or participating in an activity that will promote or help remove a barrier to employment
 (4) ☐ Being employed for at least 80 hours per month
 (5) ☐ Unable to do any of the activities in e(1)–(4) due to a medical condition
- f. Continuing in a foster care placement is in the nonminor's best interest.
- g. The nonminor and the placing agency have entered into a reentry agreement for placement in a supervised setting under the placement and care responsibility of the placing agency.
- h. ☐ The nonminor, who is an Indian child, chooses to have the Indian Child Welfare Act apply to him or her as a nonminor dependent.
5. ☐ The court makes the orders stated below:
- a. The court grants the request to resume jurisdiction, and juvenile court jurisdiction shall resume over the nonminor as a nonminor dependent.
- b. Placement and care are vested with the placing agency.
- c. The placing agency must develop with the nonminor a new Transitional Independent Living Case Plan and file it with the court within 60 days.
- d. ☐ The social worker or probation officer must consult with the tribal representative regarding a new Transitional Independent Living Case Plan.
- e. A nonminor dependent review hearing under Welfare and Institutions Code section 391 and rule 5.903 of the California Rules of Court is set for *(specify a date that is within six months of the date the voluntary reentry agreement was signed)*:
- f. The prior order appointing an attorney for the nonminor is continued, and that attorney is appointed until the jurisdiction of the juvenile court is terminated.

Court Denies Request

6. ☐ a. The court finds that the nonminor is under 21 years of age, but the nonminor does not intend to satisfy at least one of the conditions under Welfare and Institutions Code section 11403(b), or the nonminor and the placing agency have not entered into a reentry agreement.
- (1) The nonminor's request to return to foster care is denied. The request is denied because *(specify the reasons for denial)*:
- (2) The nonminor may file a new request when the circumstances change.
- (3) The order appointing an attorney to represent the nonminor is terminated, and the attorney is relieved as of *(specify date seven calendar days after the hearing)*:
- ☐ b. The court finds that the nonminor is over 21 years of age.
- (1) The request to have juvenile court jurisdiction resumed is denied; and
- (2) The order appointing an attorney to represent the nonminor is terminated, and the attorney is relieved as of *(specify date seven calendar days after the hearing)*:

Findings and Orders: Service

7. The written findings and orders must be served by the juvenile court clerk on all persons who were served with notice of the hearing.
- a. Service must be by personal service or first-class mail within three court days of the issuance of the order.
- b. Proof of service must be filed.

Date:

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 by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
FINDING AND ORDERS FOR CHILD APPROACHING MAJORITY—DELINQUENCY		
Judicial Officer:	Court Clerk:	CASE NUMBER:
Bailiff:	Other Court Personnel:	Court Reporter:
		Interpreter: Language:

Use this form to document the juvenile court's findings and orders regarding the possible modification of jurisdiction over the child, from delinquency jurisdiction to transition jurisdiction or dependency jurisdiction, the child's plans for independent living, and his or her status as a nonminor dependent as stated in rule 5.812 of the California Rules of Court at the following hearings:

1. A review hearing under Welfare and Institutions Code section 727.2, held on behalf of a child approaching majority;
2. A review hearing under Welfare and Institutions Code section 727.2, during which a recommendation to terminate juvenile court jurisdiction is considered, held on behalf of a child more than 17 years, 5 months and less than 18 years of age; or
3. Any other hearing during which a recommendation to terminate juvenile court jurisdiction is considered, held on behalf of a child more than 17 years, 5 months and less than 18 years of age who is in a foster care placement or who was subject to an order for a foster care placement as a dependent when he or she was adjudged to be a ward. This form also applies to children whose underlying adjudication is subject to vacatur under Penal Code section 236.14.

If this hearing is also a review hearing under Welfare and Institutions Code section 727.2 or section 727.3, the findings and orders required in that section and in rule 5.810 of the California Rules of Court must be made in addition to the findings and orders on this form.

**BASED ON THE REPORTS READ, CONSIDERED, AND ADMITTED INTO EVIDENCE AND ALL OTHER EVIDENCE RECEIVED,
THE COURT FINDS AND ORDERS**

Findings

1. a. ☐ The child's rehabilitative goals have been met. Juvenile court jurisdiction over the child as a ward is no longer required. The facts supporting this finding were stated on the record.
 b. ☐ The child's rehabilitative goals have not been met. Continued juvenile court jurisdiction over the child as a ward is required. The facts supporting this finding were stated on the record.
 c. ☒ The child's underlying adjudication is subject to vacatur under Penal Code section 236.14.
2. ☐ For a dual-status child for whom dependency jurisdiction was suspended under Welfare and Institutions Code section 241.1(e)(5)(A):
 a. ☐ A return to the child's home would be detrimental to the child, and juvenile court jurisdiction over the child as a dependent should be resumed. The facts supporting this finding were stated on the record.
 b. ☐ A return to the child's home would not be detrimental to the child, and juvenile court jurisdiction over the child as a dependent does not need to be resumed. The facts supporting this finding were stated on the record.

CHILD'S NAME:	CASE NUMBER:
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3. ☐ For a dual-status child for whom the probation department was designated the lead agency under Welfare and Institutions Code section 241.1(e)(5)(B):
- ☐ A return to the child's home would be detrimental to the child, and juvenile court jurisdiction over the child as a dual-status child is no longer required. The facts supporting this finding were stated on the record.
 - ☐ A return to the child's home would not be detrimental to the child, and juvenile court jurisdiction over the child as a dependent is not required. The facts supporting this finding were stated on the record.
4. ☐ For other than a dual status child:
- ☐ The child was not a court dependent at the time he or she was declared a ward.
The child ☐ does ☐ does not appear to come within the description of Welfare and Institutions Code section 300, and ☐ can ☐ cannot be returned home safely. The facts supporting this finding were stated on the record and ☐ the underlying petition is subject to vacatur under Penal Code section 236.14.
 - ☐ The child was subject to an order for a foster care placement as a dependent of the court at the time he or she was adjudged a ward and ☐ does ☐ does not remain within the description of a dependent child under Welfare and Institutions Code section 300, and a return to the home of his or her parents or legal guardian ☐ would ☐ would not create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being. The facts supporting the findings were stated on the record.
 - ☐ Reunification services ☐ have ☐ have not been terminated.
 - ☐ The child's case ☐ has ☐ has not been set for a hearing to terminate parental rights or establish a guardianship.
 - ☐ The child ☐ does ☐ does not intend to sign a mutual agreement for a placement in a supervised setting as a nonminor dependent.
5. ☐ The child's Transitional Independent Living Case Plan includes a plan for the child to satisfy at least one of the following conditions of eligibility to remain under juvenile court jurisdiction as a nonminor dependent:
- ☐ The child plans to continue attending high school or a high school equivalency certificate (GED) program.
 - ☐ The child plans to attend a college, community college, or vocational education program.
 - ☐ The child plans to take part in a program or activities to promote employment or overcome barriers to employment.
 - ☐ The child plans to be employed at least 80 hours a month.
 - ☐ The child may not be able to attend school, college, a vocational program, or a program or activities to promote employment or overcome barriers to employment or to work 80 hours per month due to a medical condition.
6. ☐ The child's Transitional Independent Living Case Plan includes an alternative plan for the child's transition to independence, including housing, education, employment, and a support system in the event the child does not remain under juvenile court jurisdiction after attaining 18 years of age.
7. For an Indian child, he or she ☐ does ☐ does not intend to continue to be considered an Indian child for the purposes of the ongoing application of the Indian Child Welfare Act to him or her as a nonminor dependent.
8. ☐ The child has an in-progress application pending for title XVI Supplemental Security Income benefits, and the continuation of juvenile court jurisdiction until a final decision has been issued to ensure continued assistance with the application process:
- ☐ is in the child's best interest.
 - ☐ is not in the child's best interest because it is not necessary.

CHILD'S NAME:	CASE NUMBER:
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9. ☐ The child has an in-progress application pending for Special Immigrant Juvenile Status or other application for legal residency for which an active juvenile court case is required.
10. ☐ The potential benefits of remaining under juvenile court jurisdiction as a nonminor dependent were explained to the child, and the child has stated that he or she understands those benefits.
11. ☐ The child was informed that he or she may decline to become a nonminor dependent.
12. ☐ The child was informed that on reaching 18 years of age, he or she may have the right to have juvenile court jurisdiction terminated following a hearing under rule 5.555 of the California Rules of Court.
13. ☐ The child was informed that if juvenile court jurisdiction is terminated, he or she has the right to file a request to return to foster care and have the court assume or resume jurisdiction over him or her as a nonminor dependent.
14. a. ☐ All the information, documents, and services required by Welfare and Institutions Code section 391(e) were provided to the child.
- b. ☐ Not all the information, documents, and services required by Welfare and Institutions Code section 391(e) were provided to the child.
- (1) ☐ The barriers to providing any missing information, documents, or services can be overcome by the date the child attains 18 years of age.
- (2) ☐ The barriers to providing any missing information, documents, or services may not be overcome by the date the child attains 18 years of age.
15. ☐ The child ☐ was ☐ was not provided with the notices and information required under Welfare and Institutions Code section 607.5.

Orders

16. ☐ The court, having previously determined that the child is a dual-status child under Welfare and Institutions Code section 241.1(e)(5)(A), and that juvenile court jurisdiction over the child as a dependent should be resumed, orders that:
- a. Dependency jurisdiction over the child previously suspended is resumed and delinquency jurisdiction is dismissed.
- b. The matter is continued for a status review hearing set under Welfare and Institutions Code section 366.21 or section 366.31, on the date stated on the record, which is within six months of the date of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.
17. ☐ The court, having previously determined that the child is a dual-status child under Welfare and Institutions Code section 241.1(e)(5)(B), that the child's rehabilitative goals were achieved, that a return to the child's home would be detrimental, and that juvenile court jurisdiction over the child as a dual-status child is no longer required, orders that:
- a. The child's dual status is terminated, delinquency jurisdiction over the child is dismissed, and dependency jurisdiction is continued with the child welfare services department responsible for the child's placement and care.
- b. The matter is continued for a status review hearing set under Welfare and Institutions Code section 366.21 or section 366.31, on the date stated on the record, which is within six months of the date of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.
18. ☐ The child comes within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450.
- a. The child was originally removed from the physical custody of his or her parents or legal guardians on *(specify date)*:
and continues to be removed from their custody.
- b. The removal findings made at that hearing—"continuation in the home is contrary to the child's welfare" and "reasonable efforts were made to prevent removal"—remain in effect.

CHILD'S NAME:	CASE NUMBER:
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18. c. The ☐ child welfare services department ☐ probation department is responsible for the child's placement and care.

The child is adjudged a transition dependent pending his or her attaining the age of 18 years and assuming the status of a nonminor dependent under the transition jurisdiction of this court. The matter is continued for a status review hearing set under Welfare and Institutions Code section 366.31 and rule 5.903 of the California Rules of Court, on the date stated on the record, which is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.

19. ☐ The child comes within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450, in that his or her underlying adjudication is subject to vacatur under Penal Code section 236.14.

- a. Continuanee in the home is contrary to the child's welfare;
- b. Reasonable efforts have been made to prevent or eliminate the need for removal, and the child remains removed from the parent or guardian;
- c. The adjudication in petition number _____ is vacated, the petition is dismissed, and the underlying arrest is expunged under Penal Code section 236.14;
- d. The Department of Justice and any law enforcement agency that has records of the arrest is ordered to seal those records and then destroy them three years from the date of the arrest or one year after the order to seal, whichever occurs later; and
- e. The ☐ probation department ☐ child welfare services department is responsible for the child's placement and care.

20. ☐ The child (1) was not a court dependent at the time he or she was declared a ward; (2) is currently subject to an order for a foster care placement; (3) does not come within the juvenile court's transition jurisdiction; (4) has achieved his or her rehabilitative goals; (5) no longer requires delinquency jurisdiction; and (6) appears to come within the description of Welfare and Institutions Code section 300 and cannot be returned home safely.

- a. The ☐ probation officer ☐ child's attorney must submit an application under Welfare and Institutions Code section 329 to the child welfare services department to commence a proceeding to declare the child a dependent of the court.
- b. The matter is set for a hearing to review the child welfare services department's decision on the date stated on the record, which is within 20 court days of the date of this order.

21. ☐ The child (1) was a court dependent at the time he or she was declared a ward; (2) does not come within the juvenile court's transition jurisdiction; (3) has achieved his or her rehabilitative goals; (4) no longer requires delinquency jurisdiction; and (5) remains within the description of a dependent child under Welfare and Institutions Code section 300 and a return to the home of a parent or legal guardian would create a substantial risk of detriment to his or her safety, protection, or physical or emotional well-being.

- a. The child was originally removed from the physical custody of his or her parents or legal guardians on (specify date): _____ and continues to be removed from their custody.
- b. The removal findings made at that hearing—"continuation in the home is contrary to the child's welfare" and "reasonable efforts were made to prevent removal"—remain in effect.
- c. The ☐ child welfare services department ☐ probation department is responsible for the child's placement and care.

The order terminating jurisdiction over the child as a dependent of the juvenile court is vacated and dependency jurisdiction over the child is resumed. Delinquency jurisdiction is terminated. The matter is continued for a status review hearing set under rule 5.903 of the California Rules of Court, on the date stated on the record, which is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.

CHILD'S NAME:	CASE NUMBER:
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22. ☐ Jurisdiction over the child is not modified from delinquency jurisdiction to dependency jurisdiction or transition jurisdiction.
- a. ☐ The child is returned to the home of the parent or legal guardian. A progress report hearing is set on the date stated on the record.
- b. ☐ The child is returned to the home of the parent or legal guardian and juvenile court jurisdiction of the child is terminated as stated in *Petition to Terminate Wardship and Order* (form JV-794).
- c. ☐ Delinquency jurisdiction is continued and the order for an out-of-home placement in a non-foster care placement remains in full force and effect. A progress report hearing is set on the date stated on the record.
- d. ☐ Delinquency jurisdiction is continued and the order for a foster care placement remains in full force and effect.
- (1) ☐ The child intends to meet the eligibility requirements for status as a nonminor dependent after attaining 18 years of age, and a status review hearing is set under rule 5.903 of the California Rules of Court, on the date stated on the record, which is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.
- (2) ☐ The child does not intend to meet the eligibility requirements for status as a nonminor dependent after attaining 18 years of age.
- (a) ☐ A hearing to terminate delinquency jurisdiction under Welfare and Institutions Code sections 607.2(b)(4) and 607.3 is set for the date stated on the record, which is within one month of the child's 18th birthday.
- (b) ☐ A status review hearing is set under Welfare and Institutions Code section 727.2, on the date stated on the record, which is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or section 727.3.

23. The next hearings are scheduled as follows:

- a. ☐ Nonminor dependent status review hearing under Welfare and Institutions Code section 366.31 and rule 5.903 of the California Rules of Court

Hearing date:	Time:	Dept:	Room:
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- b. ☐ Hearing to consider termination of jurisdiction under Welfare and Institutions Code section 391 and rule 5.555 of the California Rules of Court

Hearing date:	Time:	Dept:	Room:
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- c. ☐ Other (*specify*):

Hearing date:	Time:	Dept:	Room:
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Date:

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 by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER HEARING TO MODIFY DELINQUENCY JURISDICTION TO TRANSITION JURISDICTION FOR CHILD YOUNGER THAN 18 YEARS OF AGE		
Judicial Officer:	Court Clerk:	CASE NUMBER:
Court Reporter:	Court Reporter:	Court Reporter:
Bailiff:	Other Court Personnel:	Interpreter: Language:

Use this form to document the findings and orders regarding the modification of delinquency jurisdiction to transition jurisdiction for a child older than 17 years, 5 months and younger than 18 years of age, who:

- Qualifies for vacatur of his or her underlying adjudication and dismissal of the petition pursuant to Penal Code section 236.14 or has met his or her rehabilitative goals;
- Is under an order for foster care placement;
- Wants to remain in extended foster care under the transition jurisdiction of the juvenile court;
- Is not receiving reunification services; and
- Does not have a hearing set for termination of parental rights or establishment of guardianship.

- | | Present | | Present |
|--|--------------------------|------------------|--------------------------|
| 1. Parties (name) | | Attorney (name): | |
| a. Ward: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 2. Parent | | | |
| a. (Name): | <input type="checkbox"/> | Father | <input type="checkbox"/> |
| b. (Name): | <input type="checkbox"/> | Mother | <input type="checkbox"/> |
| | <input type="checkbox"/> | Father | <input type="checkbox"/> |
| | <input type="checkbox"/> | Mother | <input type="checkbox"/> |
| 3. Legal guardian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 4. Indian custodian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 5. Tribal representative (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 6. <input type="checkbox"/> Others present | | | |
| a. Other (name): | | | |
| b. Other (name): | | | |
| c. Other (name): | | | |

CHILD'S NAME:	CASE NUMBER:
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7. The court has read and considered and admits into evidence

- a. ☐ Report of social worker dated:
- b. ☐ Report of probation officer dated:
- c. ☐ Other (specify):
- d. ☐ Other (specify):
- e. ☐ Other (specify):

BASED ON THE FOREGOING AND ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS

Findings

8. Notice ☐ has ☐ has not been given as required by law.

9. a. ☐ The child comes within the description of Welfare and Institutions Code section 450, in that:

(1) ☐ The child is older than 17 years and 5 months and younger than 18, and the underlying adjudication is subject to vacatur under Penal Code section 236.14, or ☐ the child's rehabilitative goals as stated in the case plan have been met, and juvenile court's delinquency jurisdiction over him or her as a ward is no longer required.

(2) ☐ The child is older than 17 years, 5 months and younger than 18 years of age and is subject to an order for foster care placement.

(3) ☐ The child was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Welfare and Institutions Code section 725, and ordered into foster care placement as a ward, or the child was removed from the custody of his or her parents as a dependent of the court with an order for foster care placement in effect at the time the court adjudged him or her to be a ward of the juvenile court under Welfare and Institutions Code section 725.

b. ☐ The child does not come within the description of Welfare and Institutions Code section 450, in that (check all that apply):

(1) ☐ The child is not more than 17 years, 5 months and less than 18 years of age and subject to a foster care placement order.

(2) ☐ The child was not removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Welfare and Institutions Code section 725, and ordered into foster care placement as a ward, nor was the child removed from the custody of his or her parents as a dependent of the court with an order for a foster care placement in effect at the time the court adjudged him or her to be a ward of the juvenile court under Welfare and Institutions Code section 725.

(3) ☐ The child's rehabilitative goals as stated in the case plan have not been met, and the juvenile court's delinquency jurisdiction over him or her as a ward is required.

10. ☐ The child ☐ has ☐ has not been informed that he or she may decline to become a nonminor dependent and may have juvenile court jurisdiction terminated at a hearing under Welfare and Institutions Code section 391 and rule 5.555 of the California Rules of Court.

11. ☐ The child's return to the home of his or her legal guardian ☐ would ☐ would not create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being. The facts supporting this finding were stated on the record.

12. Reunification services ☐ have ☐ have not been terminated.

13. The child's case ☐ has ☐ has not been set for a hearing to terminate parental rights or establish a guardianship.

CHILD'S NAME:	CASE NUMBER:
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14. The child ☐ does ☐ does not intend to sign a mutual agreement for a placement in a supervised setting as a transition dependent.
15. The child's Transitional Independent Living Case Plan ☐ does ☐ does not include a plan for the child to satisfy at least one of the following conditions of eligibility to remain under juvenile court jurisdiction as a transition dependent *(check all that apply)*:
- ☐ The child plans to continue attending high school or a high school equivalency certificate (GED) program.
 - ☐ The child has made plans to attend a college, a community college, or a vocational education program.
 - ☐ The child plans to participate in a program or activities to promote employment or overcome barriers to employment.
 - ☐ The child has made plans to be employed at least 80 hours per month.
 - ☐ The child may not be able to attend school, college, a vocational program, or a program or activities to promote employment or overcome barriers to employment or to work 80 hours per month due to a medical condition.
16. The child ☐ has ☐ has not had an opportunity to confer with his or her attorney.
17. ☐ The court makes the following orders modifying jurisdiction:
- The young person comes within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450(a)(1)(B) and 450(a)(2)(C).
 - Continuance in the home is contrary to the child's welfare;
 - Reasonable efforts have been made to prevent or eliminate the need for removal, and the child remains removed from the parent or guardian;
 - The adjudication in petition number _____ is vacated, the petition is dismissed, and the underlying arrest is expunged under Penal Code section 236.14;
 - The Department of Justice and any law enforcement agency that has records of the arrest is ordered to seal those records and then destroy them three years from the date of the arrest or one year after the order to seal, whichever occurs later; and
 - The ☐ probation department ☐ child welfare services department is responsible for the child's placement and care.
 - The child is adjudged a transition dependent under the transition jurisdiction of this court.
 - Delinquency jurisdiction is terminated.
 - (Insert name):* ☐ continues his/her court appointment ☐ is appointed by the court as the attorney of record for the child.
 - The matter is continued for a nonminor dependent status review hearing set under Welfare and Institutions Code section 366.31, and rule 5.903 of the California Rules of Court on *(date)*: _____. This date is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or 727.3.

CHILD'S NAME:	CASE NUMBER:
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18. ☐ **The court makes the following orders not modifying jurisdiction:**

- a. The child does not come within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450.
- b. The child continues under the delinquency jurisdiction of the court.
- c. The matter is continued for a status review hearing on *(date)*: . This date is within six months of the child's most recent status review hearing under Welfare and Institutions Code section 727.2 or 727.3.

19. ☐ **The court makes the following additional findings and orders to terminate jurisdiction:**

- a. The child has met his or her rehabilitative goals and does not wish to become a transition dependent.
- b. A hearing to consider termination of jurisdiction under Welfare and Institutions Code section 391 and rule 5.555 of the California Rules of Court is set on *(date)*:

Date:

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 by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CHILD'S NAME:		
FINDINGS AND ORDERS AFTER HEARING TO MODIFY DELINQUENCY JURISDICTION TO TRANSITION JURISDICTION FOR WARD OLDER THAN 18 YEARS OF AGE		
Judicial Officer:	Court Clerk:	Court Reporter:
Bailliff:	Other Court Personnel:	Interpreter: Language:

- | | <u>Present</u> | <u>Attorney (name):</u> | <u>Present</u> |
|--|--------------------------|-------------------------|--------------------------|
| 1. Parties (name) | | | |
| a. Nonminor: | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. Probation officer: | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. County agency social worker: | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other (specify): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 2. Parent | | | |
| a. (Name): <input type="checkbox"/> Father <input type="checkbox"/> Mother | <input type="checkbox"/> | | <input type="checkbox"/> |
| b. (Name): <input type="checkbox"/> Father <input type="checkbox"/> Mother | <input type="checkbox"/> | | <input type="checkbox"/> |
| 3. Legal guardian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 4. Indian custodian (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 5. Tribal representative (name): | <input type="checkbox"/> | | <input type="checkbox"/> |
| 6. <input type="checkbox"/> Others present | | | |
| a. Other (name): | | (Name): | |
| b. Other (name): | | (Name): | |
| c. Other (name): | | | |
| 7. The court has read and considered and admits into evidence | | | |
| a. <input type="checkbox"/> Report of social worker dated: | | | |
| b. <input type="checkbox"/> Report of probation officer dated: | | | |
| c. <input type="checkbox"/> Other (specify): | | | |
| d. <input type="checkbox"/> Other (specify): | | | |
| e. <input type="checkbox"/> Other (specify): | | | |

NONMINOR'S NAME:	CASE NUMBER:
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BASED ON THE FOREGOING AND ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS

Findings

8. Notice ☐ has ☐ has not been given as provided by law.
9. a. ☐ The nonminor comes within the description of Welfare and Institutions Code section 450 in that:
- (1) The ward is a nonminor ward in foster care placement who was a ward subject to an order for foster care placement on the day of his or her 18th birthday and is under the age of 21.
 - (2) The ward was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Welfare and Institutions Code section 725, and ordered into foster care placement as a ward, or the ward was removed from the custody of his or her parents as a dependent of the court with an order for foster care placement in effect at the time the court adjudged him or her to be a ward of the juvenile court under Welfare and Institutions Code section 725.
 - (3) The ward's rehabilitative goals as stated in the case plan have been met, and juvenile court's delinquency jurisdiction over him or her as a ward is no longer required.
- b. ☐ The nonminor comes within the description of Welfare and Institutions Code section 450 in that the young person is under 21 years of age and in a foster care placement based on an adjudication that is subject to vacatur under Penal Code section 236.14.
- (1) ☐ The child was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Welfare and Institutions Code section 725, and ordered into foster care placement as a ward, or the child was removed from the custody of his or her parents as a dependent of the court with an order for foster care placement in effect at the time the court adjudged him or her to be a ward of the juvenile court under Welfare and Institutions Code section 725.
- c. ☐ The ward does not come within the description of Welfare and Institutions Code section 450, in that *(select all that apply)*:
- (1) ☐ The ward was not subject to an order for foster care placement on the day of his or her 18th birthday.
 - (2) ☐ The ward is over the age of 21.
 - (3) ☐ The ward was not removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Welfare and Institutions Code section 725, and ordered into foster care placement as a ward, nor was the ward removed from the custody of his or her parents as a dependent of the court with an order for a foster care placement in effect at the time the court adjudged him or her to be a ward of the juvenile court under Welfare and Institutions Code section 725.
 - (4) ☐ The ward's rehabilitative goals as stated in the case plan have not been met, and the juvenile court's delinquency jurisdiction over him or her as a ward is required.
10. ☐ The ward ☐ has ☐ has not been informed that he or she may decline to become a nonminor dependent and may have juvenile court jurisdiction terminated at a hearing under rule 5.555 of the California Rules of Court.
11. ☐ The nonminor ☐ was ☐ was not informed that if juvenile court jurisdiction is terminated, the nonminor can file a request to return to foster care and may have the court resume jurisdiction over the ward as a nonminor dependent.
12. ☐ The benefits of remaining under juvenile court jurisdiction as a nonminor dependent ☐ were ☐ were not explained ☐ and the nonminor understands them.
13. ☐ The ward ☐ has ☐ has not signed a mutual agreement with the responsible agency for placement in a supervised setting as a nonminor dependent.

NONMINOR'S NAME:	CASE NUMBER:
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14. The ward's Transitional Independent Living Case Plan ☐ does ☐ does not include a plan for the ward to satisfy at least one of the following conditions of eligibility to remain under juvenile court jurisdiction as a transition dependent (check all that apply):

- a. ☐ The ward plans to continue attending high school or a high school equivalency certificate (GED) program.
- b. ☐ The ward has made plans to attend a college, a community college, or a vocational education program.
- c. ☐ The ward plans to participate in a program or activities to promote employment or overcome barriers to employment.
- d. ☐ The ward has made plans to be employed at least 80 hours per month.
- e. ☐ The ward may not be able to attend school, college, a vocational program, or a program or activities to promote employment or overcome barriers to employment or to work 80 hours per month due to a medical condition.

15. The ward ☐ has ☐ has not had an opportunity to confer with his or her attorney.

16. ☐ The court makes the following orders modifying jurisdiction:

- a. The nonminor comes within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450(a)(1)(B) and 450(a)(2)(C).
 - (1) Continuance in the home is contrary to the child's welfare;
 - (2) Reasonable efforts have been made to prevent or eliminate the need for removal and the child remains removed from the parent or guardian;
 - (3) The adjudication in petition number _____ is vacated, the petition is dismissed, and the underlying arrest is expunged under Penal Code section 236.14;
 - (4) The Department of Justice and any law enforcement agency that has records of the arrest is ordered to seal those records and then destroy them three years from the date of the arrest or one year after the order to seal, whichever occurs later; and
 - (5) The ☐ probation department ☐ child welfare services department is responsible for the nonminor's placement and care.
- b. The ward comes within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450.
 - (1) The ward was originally removed from the physical custody of his or her parents or legal guardians on (specify date of detention hearing when removal findings were made): _____ and continues to be removed from their custody.
 - (2) The removal findings—"continuance in the home is contrary to the child's welfare" and "reasonable efforts were made to prevent removal"—made at that hearing remain in effect.
 - (3) The ☐ probation department ☐ social services agency is responsible for the nonminor's placement and care.
- c. The nonminor is adjudged a nonminor dependent under the transition jurisdiction of this court.
- d. Delinquency jurisdiction is terminated.
- e. (Insert name): _____ ☐ continues his/her court appointment ☐ is appointed by the court as the attorney of record for the nonminor dependent.
- f. The matter is continued for a nonminor dependent status review hearing set under rule 5.903 of the California Rules of Court on (date): _____. This date is within six months of the nonminor's most recent status review hearing under Welfare and Institutions Code section 727.2 or 727.3.

NONMINOR'S NAME:	CASE NUMBER:
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17. ☐ **The court makes the following orders not modifying jurisdiction:**

- a. The nonminor does not come within the juvenile court's transition jurisdiction as described in Welfare and Institutions Code section 450.
- b. The nonminor continues under the delinquency jurisdiction of the court.
- c. The matter is continued for a status review hearing on *(date)*: . This date is within six months of the nonminor's most recent status review hearing under Welfare and Institutions Code section 727.2 or 727.3.

18. ☐ **The court makes the additional findings and orders to terminate jurisdiction:**

- a. The ward has met his or her rehabilitative goals, but does not wish to become a nonminor dependent.
- b. A hearing to consider termination of jurisdiction under Welfare and Institutions Code section 607.3, and rule 5.555 of the California Rules of Court is set on *(date)*:

Date:

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 by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
REQUEST TO EXPUNGE ARREST OR VACATE ADJUDICATION (HUMAN TRAFFICKING VICTIM) (Penal Code, § 236.14)	CASE NUMBER: Date: Time: Department:

Instructions — Read Carefully

- Use this form if you were arrested and/or went to court for an offense that you committed because you were a victim of human trafficking when you were under the age of 18. If the court agrees that you committed the offense because you were a victim of human trafficking, the court will take the charge off your record. You need to use a different form if you were 18 or older at the time of the offense.
- If this form asks for information that you do not have, you can contact your attorney. If you don't have an attorney, the public defender's office in the court or county where you went to court can probably help you get the information.
- The court will serve this form for you unless you have an attorney. If you have an attorney, he or she must serve the form.
- Your request will be considered to be unopposed if an objection is not filed within 60 days from the file-stamped date on this 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 the table in number 2. You can list arrests or adjudications from different courts that you want the court to take off your record because you did the offense when you were a victim of human trafficking.
 - D. Fill out number 3 with information that describes how you were a victim of human trafficking. That information may, but does not need to, include information from police reports, delinquency petitions, or child welfare petitions. Check the box in 3 if you have documents to attach to this request.
 - E. If you have arrests or adjudications from different counties, for offenses you committed while you were a human trafficking victim and you want the judge to consider taking all of those off your record, check the box in number 4.
 - F. The court may set a hearing to make a decision about your request. You need to go to the hearing, unless you have a good reason not to. If you do not want to go to the hearing, check the box in number 6 and tell the judge why you don't want to go. The judge might let you appear at the hearing by phone or videoconference.
 - G. If you will need an interpreter, ask for one in number 7.
 - H. You can ask the court for additional relief. If you want the court to take additional action, complete number 9.

1. MY INFORMATION

My name is:

I was born on (date):

My mailing address is:

CASE NAME:	CASE NUMBER:
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2. OFFENSE INFORMATION

I was arrested for and/or was made a ward of the court (adjudicated) for the offenses listed below:

Arrest or Adjudication Ar=arrest Ad=adjudication	Report number (from the police report or the delinquency petition)	Date of Petition	Court Case Number	Jurisdiction (City and/or County)	Disposition (City and/or County)	Offense (Crime) Committed

3. I committed the offense(s) listed above because I was a victim of human trafficking.

The facts that show I was a victim of human trafficking when I committed the offense are in:

- ☐ Police report number _____ that is dated _____.
☐ Delinquency petition number _____ that is dated _____.
☐ Dependency petition number _____ that is dated _____.
☐ I have attached documents that are from the police department, probation department, or child welfare agency that show I was a victim of human trafficking.

4. ☐ I request that this court hear all of the arrests and adjudications that I want taken off my record, even if they did not happen in this county.**5. Under Penal Code section 236.14, I am asking the court for additional relief. The action I want the court to take and the reason I want the court to take the action, is written below.****6. WAIVER OF APPEARANCE**

- a. ☐ I know that I have a right to attend any hearing about my request and argue on my behalf. I do not want to attend and agree that the hearing can be held without my presence. I have compelling reasons (good reasons) for not wanting to attend and they are written below:

- b. ☐ I can appear at the hearing by telephone or videoconference.

7. REQUEST FOR INTERPRETER

- ☐ If there is a hearing, I will need a (language) _____ interpreter.

8. I request that the court dismiss the adjudication(s) and the related petition(s) in the cases listed in item 2 of this request.**9. I request that the court expunge (take off) the arrest(s) listed in item 2 of this request.**

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

Date:

(TYPE OR PRINT NAME OF PETITIONER)	 (SIGNATURE OF PETITIONER OR SIGNATURE OF ATTORNEY)
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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): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
<p style="text-align: center;">ORDER AFTER REQUEST TO EXPUNGE ARREST OR VACATE ADJUDICATION (HUMAN TRAFFICKING VICTIM) (Penal Code, § 236.14)</p>	CASE NUMBER: _____
	Date: _____ Time: _____ Department: _____

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

1. ☐ The applicant and/or counsel were personally present at the hearing, or appeared by phone or videoconference.
 2. ☐ The prosecutor did not file an opposition to the request. The request is considered unopposed.
 3. The court finds:
 - ☐ The applicant was a victim of human trafficking when he or she committed the offense(s).
 - ☐ The applicant committed the offense because he or she was a human trafficking victim.
 - ☐ The applicant is making a good effort to distance himself or herself from human trafficking.
 - ☐ It is in the best interest of the applicant and in the interest of justice for this court to grant the request.
 4. The court ☐ grants ☐ denies the applicant's request to vacate the adjudication(s) and related disposition(s) and dismiss the petition(s) listed in the request. The court further orders the associated dispositions vacated.
 5. The court ☐ grants ☐ denies the applicant's request to expunge the arrest(s) listed in the request.
 6. a. ☐ The court grants the applicant's request for additional relief ☐ in whole ☐ in part and orders:
 - b. ☐ The court denies the applicant's request for additional relief for the following reasons:
7. ***If the court grants the requested relief:***
- a. The Department of Justice is hereby notified that the applicant was a victim of human trafficking when he or she committed the offense(s), and of the relief ordered by this court.
 - b. The following agencies and officials are ordered to seal and destroy their records of the applicant's arrest within three years from the date of the arrest or within one year after the granting of this order, whichever occurs later, and thereafter to destroy the court order to seal and destroy those records:

CASE NAME:	CASE NUMBER:
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California Department of Justice

Law enforcement agency(ies) with jurisdiction over the offense(s) (*specify all*):

Law enforcement agency(ies) that arrested the applicant or participated in an arrest of the applicant (*specify all*):

- c. The applicant may lawfully deny or refuse to acknowledge an arrest or adjudication that is set aside and vacated pursuant to this order.
 - d. The records of a set-aside and vacated arrest or adjudication must not be distributed to any state licensing board.
 - e. The record of a proceeding related to this request that is accessible to the public must not disclose the applicant's full name.
 - f. Any outstanding fines and fees associated with the vacated dispositions, other than restitution that directly benefits the victim, are set aside and discharged.
8. ☐ The request is denied without prejudice. The request is denied because the evidence presented did not show (*provide reasons for denial*):

9. ☐ The applicant is hereby granted a reasonable period of time to fix the problems noted in item 8 above.

10. ☐ The request is denied without prejudice pending a hearing. The hearing is scheduled for
 (date): (time): in (department):

Date:

 (JUDICIAL OFFICER)

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
1.	Alliance for Children’s Rights by Nisha Kashyap	AM	<p>We recommend that the five-year sunset provision proposed for petitions filed under Penal Code 236.14 be deleted. In its comments to the proposed rules and forms, the Judicial Council postulates: “In light of the decriminalization of prostitution for juveniles in conjunction with the recent efforts to identify victims of human trafficking and provide them services through child welfare rather than juvenile justice, it is anticipated that (1) going forward there will be only rare circumstances where delinquency petitions are filed against victims of human trafficking, and (2) it will only take a few years for those young people who are eligible for vacatur to petition for that relief.”</p> <p>We respectfully submit that this assumption fails to recognize the variety of crimes for which trafficking victims are routinely charged. The Judicial Council assumes that the main crime trafficking victims are arrested and/or adjudicated for is “prostitution, solicitation or loitering.” However, in our experience, law enforcement arrests trafficking victims for many other crimes. An informal survey of</p>	<p>The committee appreciates these thoughtful comments and is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>cases in the Los Angeles County juvenile court that provides specialized services to survivors of sex trafficking suggests that as many as one-third of the youth were arrested and/or adjudicated for non-violent offenses directly related to their trafficking. This undercuts the Judicial Council's expectation that petitions against victims of human trafficking are rare.</p> <p>Moreover, our experience serving youth survivors of commercial sex trafficking has taught us that it often takes years for survivors to address the full ramifications of their trafficking. Many youth survivors of trafficking must first focus on overcoming significant obstacles to meeting their basic needs for stable housing, food, transportation, and personal safety before addressing the significant trauma associated with their trafficking. Additionally, youth who have endured serious trauma may take time to disclose details about their exploitation or may have difficulty engaging in supportive services for many years following the events. It would hinder the purpose and utility of the vacatur process to deny youth survivors access to the process once they are ready to rebuild their lives.</p>	

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>Accordingly, we firmly believe that the Penal Code 236.14 petition process should not be subject to any sunset provision, but rather that the sealing of records option must be available in perpetuity. We respectfully request that the proposed sunset provision is deleted.</p> <p>Thank you for considering these comments when revising the forms implementing AB 604. We greatly appreciate this effort by the Judicial Council to provide additional clarification and support in filing Penal Code 236.14 petitions that provide critical new protections for youth survivors of commercial sexual exploitation in California.</p>	
2.	Bay Area Legal Aid by Sabrina Forte, Project Coordinator, Youth Justice Project	AM	Bay Area Legal Aid (BayLegal) is committed to providing equal access to the civil justice system and high quality legal assistance throughout the Bay Area, regardless of a client's location, language or disability. BayLegal and its predecessor organizations have 50 years of experience providing expert civil legal assistance to low-income Bay Area individuals and families. We serve residents of Alameda, Contra Costa, Marin, Napa, San Francisco,	No response required.

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>San Mateo and Santa Clara counties with incomes at or below 200% of the Federal Poverty Level.</p> <p>BayLegal prioritizes its resources on serving the most underserved and vulnerable populations, including Limited English Proficient individuals and families, the disabled, immigrant victims of abuse, the formerly incarcerated, the LGBT community, and homeless and at-risk youth. We focus on five areas of law that most directly affect safety, stability and self-sufficiency: consumer law, domestic violence prevention, economic justice, health care access, and housing and homelessness prevention.</p> <p>BayLegal's Youth Justice Unit draws upon BayLegal's depth of substantive expertise to provide a unique model of civil legal advocacy for youth who are homeless or at extreme risk of homelessness, often due to aging out of the foster care system, justice system involvement, abuse and neglect, and/or trafficking. The Youth Justice Unit began in 2007 with one attorney fellow and has expanded to include ten attorneys and two social workers. Between 2014 and</p>	

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>2017, the Youth Justice Unit assisted 128 trafficked youth in over 200 distinct legal cases, including petitions for vacatur relief under Penal Code 236.14.</p> <p>In general, the forms and amended rules of court are accessible and provide young adults with clear guidance for obtaining vacatur relief while maintaining critical extended foster care benefits. We write only to comment on the provision that sunsets Rule 5.811 and forms JV-748 and JV-749 after five years. We do not think that five years is a sufficient time period for our clients to request vacatur.</p> <p>First, although the comments to the proposed rules and forms assume that, over time, the decriminalization of prostitution for minors will diminish the number of delinquency petitions filed against victims of human trafficking, that assumption is not supported by our experience working with exploited youth in the Bay Area. Though minor victims of human trafficking cannot face prosecution for prostitution or solicitation, they continue to be subject to delinquency petitions for "masking" charges, i.e., an allegation of theft or</p>	<p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<p>disorderly conduct that is directly related to trafficking. Decriminalization does not prohibit juvenile probation departments from filing petitions based on these allegations, and in our experience, decriminalization has not stemmed the flow of these delinquency petitions.</p> <p>Nor are these youth generally diverted to the child welfare system, despite amendments to the Welfare and Institutions Code that clarify that failure to protect a child from exploitation is a basis for child welfare system involvement. A juvenile court judge in Alameda County recently remarked that, in the year following decriminalization, the county saw only one trafficking victim redirected to the dependency court, while the county's girls' court and Safety Net multi- disciplinary team continue to see new petitions against victims of trafficking for offenses that are directly related to their victimization. Although vacatur is available as an affirmative defense, it is infrequently raised, and so the victim may not learn about vacatur as a clean slate remedy until after they are dismissed from probation (often two or three years later). For the influx of young victims who are still facing</p>	

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SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>delinquency petitions for non-violent offenses today, it will likely take more than five years for them to complete probation, demonstrate sufficient rehabilitation, and then pursue vacatur relief.</p> <p>Second, due to the complex personal and psychological dynamics of human trafficking, it may take several years for a human trafficking victim to identify as a victim. Others identify as a victim but have such severe post-traumatic stress disorder and need significant temporal distance before they can acknowledge their trafficking history. Placing a sunset date on the availability of vacatur relief may cause victims to be re-traumatized in an attempt to seek critical relief before they are ready to do so.</p> <p>For these reasons, we respectfully recommend deleting the sunset provision, to allow time for implementation and community education, and to maximize the number of trafficking victims who will be able to access this life-changing relief.</p>	
3.	Bet Tzedek by Diego Cartagena, Vice President, Legal Programs	AM	Background Founded in 1974, the mission of Bet Tzedek (Hebrew for "House of Justice") is to act	No response required.

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<p>upon act upon a central tenant of Jewish law and tradition: "Tzedek, Tzedek, tirdof-justice, justice, you shall pursue." The doctrine establishes an obligation to advocate the just causes of the most vulnerable members of society. Consistent with this mandate, Bet Tzedek provides free legal assistance to eligible low- income residents of Los Angeles County, regardless of their racial, religious, or ethnic background. Bet Tzedek's Employment Rights Project litigates and advocates on behalf of human trafficking survivors-a form of modern day slavery, and one of the most severe violations of human and workers' rights.</p> <p>Among other things, we have fought to recover compensation for economic loss and suffering for our human trafficking survivor clients in both labor and sex trafficking cases. Many of our clients have had arrests or convictions that were a direct result of their being trafficked.</p> <p>This experience gives Bet Tzedek critical information about the real-life experiences of trafficking victims and how the revisions to the proposed forms implementing Penal</p>	

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SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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Commentator	Position	Comment	Committee Response
		<p>Code section 236.14 will impact survivors of human trafficking, especially juveniles.</p> <p>We are also well aware of the disproportionately large number of crimes for which individuals are arrested or convicted solely as a result of their trafficking status. In a survey of its membership, the National Survivor Network reported that 40% of the respondents were arrested and/or convicted of crimes nine times or more while they were being trafficked. In New York, the state with the oldest vacatur law addressing human trafficking survivors, the Urban Institute documented that since the law was enacted in 2010, the state had vacated 1,598 convictions. Those convictions were imposed on the records of only 94 survivors. Survivors had an average of 21 convictions on their records, the fewest had one, while one client had 147.2</p> <p>The frequency of arrest and conviction of trafficking survivors means that the process of clearing arrest records and vacating adult convictions and juvenile adjudications is a complex and time-consuming process for both advocates and survivors. It is thus</p>	

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SP18-24

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

	Commentator	Position	Comment	Committee Response
			<p>essential that the Judicial Council present clear information and guidance for undertaking the process in the rules and forms it proposes to implement Section 236.14. The concrete suggestions we offer below are provided with firsthand knowledge of the complexities of arrests and/or criminal convictions in the human trafficking context.</p> <p>Overall Comments on Process/ Confidentiality</p> <p>First, Bet Tzedek commends the Judicial Council for creating new forms to establish a uniform process for vacatur for minor victims of human trafficking. This type of relief, as well as continued access to extended foster care benefits, is essential for both sex and labor trafficking victims' ability to recover and rebuild their lives after a trafficking experience.</p> <p>Bet Tzedek further agrees with the Council's assessment that the confidentiality provision already in place for juvenile proceedings is sufficient to protect the confidentiality concerns most survivors face and that no additional provisions are needed to protect</p>	<p>No response required.</p> <p>No response required.</p>

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SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>the names of young people seeking to have their juvenile adjudications or arrests sealed.</p> <p>We understand that filing petitions under Section 236.14 is a difficult, traumatic, and re-triggering experience for survivors. Bet Tzedek thus commends the thoughtful, streamlined process the Council proposes to ensure that minors can access this new form of relief and maintain eligibility for extended foster benefits. However, Bet Tzedek is concerned about the impact of some of the proposed practices on the desire or ability of some survivors, particularly juveniles, to access the mandated relief. Accordingly, Bet Tzedek provides further comments and specific suggestions below to strengthen the proposed rules and forms.</p> <p>Sunset of Provisions</p> <p>Based on our experience working with human trafficking survivors and the complex systemic change that is needed to ensure that sex and labor trafficking survivors are no longer arrested or convicted of any crimes their traffickers force them to commit, we believe that the assumption underlying the Judicial Council 's suggested</p>	<p>No response required.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>five-year sunset provision for petitions to be filed under Section 236.14 is in error. We strongly recommend that the sunset provision should be deleted.</p> <p>In its comments to the proposed rules and forms, the Council speculates: "In light of the decriminalization of prostitution for juveniles in conjunction with the recent efforts to identify victims of human trafficking and provide them services through child welfare rather than juvenile justice, it is anticipated that (1) going forward there will be only rare circumstances where delinquency petitions are filed against victims of human trafficking, and (2) it will only take a few years for those young people who are eligible for vacatur to petition for that relief."</p> <p>We respectfully submit that this assumption fails to recognize the variety of crimes for which trafficking victims are routinely charged. The Judicial Council assumes that the main crime for which trafficking victims are arrested and/or convicted is "prostitution, solicitation or loitering." Section 236.14, however, was expressly</p>	

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>designed to allow for arrests and convictions to be vacated for all non-violent offenses, precisely because trafficking victims are arrested and convicted for a broad range of crimes undertaken under duress for their trafficker's benefit. A non-violent offense is any offense not listed in Penal Code section 667.5(C) (See PC section 236.14(t)(i) defining nonviolent offense.) The new rules and guidance proposed by the Judicial Council should consider the broad range of crimes covered by Section 236.14 in determining the propriety of a sunset provision.</p> <p>From our "on the ground" experience both before and after enactment of SB 1322, (Mitchell. Commercial sex acts: minors), we know that law enforcement often arrests trafficking victims for many crimes other than prostitution, solicitation, or loitering. While the prohibition against arresting trafficked minors for these crimes in California is a good start, it is just a first step in ensuring that all minors are properly screened by law enforcement and our juvenile delinquency system to make certain they receive services through the child dependency system rather than the criminal</p>	

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SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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			<p>justice system. In our experience, both sex and labor trafficking victims are forced to commit a broad range of crimes by both their trafficker, and for their trafficker's benefit. These crimes range from forced stealing, drug cultivation or sales, identity theft or fraud, to truancy and other trafficking-related offenses. The complexities of this forced criminality common to so many trafficking victims is still not properly understood in California or nationally, and underscores the need for provisions like Section 236.14 to be accessible to child victims of trafficking for the foreseeable future.</p> <p>Supporting this ongoing experience is data from the National Survivor Network Survey (NSN) relating to juvenile arrests and convictions. The NSN is an organization whose only members are human trafficking survivors. It has representatives in over 37 states. A survey of its member respondents highlighted that 41.6% reported being arrested as minors. When asked about the specific nature of their arrests, although 65.3% respondents indicated they had been arrested for prostitution, 42.7% for solicitation, and 25.3% for intent to solicit,</p>	

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			<p>40% also reported being arrested for drug possession and 18.7% for drug sales. Moreover, fully 60% reported being arrested for other crimes. Based on these statistics, the NSN concluded that traffickers forced their victims to participate in a multitude of crimes in addition to prostitution, particularly drug sales and possession.</p> <p>A 2017 study of Covenant House clients in ten U.S. cities provides additional information showing that child labor or sex trafficking victims are likely to be arrested for crimes in addition to prostitution, solicitation and loitering. This runaway and homeless youth provider included Oakland and Los Angeles in its study, thus providing some data that is California-specific. The Covenant House report highlights that out of 270 youth respondents, 17% had been sex trafficked, 6% had been labor trafficked, and 20% had experienced both labor and sex trafficking. Interestingly, the data specific to Oakland showed a higher percentage of respondents trafficked for labor than for sex: 19% of youth respondents reported being labor trafficked in Oakland versus 15% for sex trafficking. The study further concluded:</p>	

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			<p>The vast majority (81%) of labor trafficking cases reported in this study were instances of forced drug dealing. Nearly 7% (42) of all youth interviewed had been forced into working in the drug trade. Forced drug dealing occurred through familial and cultural coercion as well as through the violence of suppliers and gangs.³</p> <p>This data highlights that in California we have not even begun to address labor trafficking based on coerced drug dealing in our youth population, further evidencing the likely need for these youth to have access to sealing their records beyond the five years proposed by the Judicial Council.</p> <p>Finally, in our experience, because of the nature of the crimes and control by their traffickers, individuals often do not self-identify as victims. Some of them further believe they were actually complicit in criminal acts that their traffickers forced them to commit, while others continually lie about their trafficking experience to protect their trafficker. This is often especially the case with child victims. Even with the most extensive screening and training for law</p>	

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			<p>enforcement, and others involved in child delinquency and dependency proceedings, the dynamics and indicators of all forms of human trafficking are so complex and often hidden that these experts have a difficult time identifying victims. This means that the dynamic of the crime itself requires a system in place to correct errors that are likely to occur with this victim population, as was the designed purposed of Section 236.14.</p> <p>In conclusion, we are highly concerned about the Judicial Council's recommended sunset provision. We believe that extensive systemic change is needed so that child trafficking survivors are not arrested or/convicted of the multitude of crimes that traffickers force them to commit. It is our belief that the necessary changes will take far more than five years to be implemented. Based on our experience, we believe that the system may never identify all victims in a timely manner given the nature of trafficking dynamics. Accordingly, we firmly believe the Section 236.14 petition process should not be subject to any sunset provision, but rather the sealing of records option must be available in perpetuity.</p>	

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			<p>Proposed Form JV-748</p> <p>We make the following suggestions and comments below about the Proposed Form JV-748.</p> <p>Inclusive Language and Simplicity of Forms</p> <p>First, we commend the Judicial Council for asking for specific comments and feedback on its proposed language and simplicity of its forms.</p> <p>We believe that identifying the petitioner as a "young person" is a sensitive and thoughtful choice by the Judicial Council to refer to this population. Many trafficking victims do not self-identify as victims and/or are too often pejoratively referred to as "defendants" in these types of proceedings. Using the phrase "young person" is both neutral and nonjudgmental.</p> <p>In reviewing the overall language of the forms, and the instructions to the forms, Bet Tzedek's assessment is that they are straightforward and easy to understand and thus "youth friendly." However, Bet Tzedek believes that in some places in the forms</p>	<p>No response required.</p> <p>No response required.</p>

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		<p>misstate or fail to include the full requirements of the law, and therefore should be modified as suggested below.</p> <p>Evidence to Show Youth Was A Victim of Human Trafficking</p> <p>The instructions for the form Letter D appear to misstate the law in requiring a young person to use only police reports, delinquency petitions, or child welfare petitions to describe how the youth was a victim of human trafficking. Although these documents are permissible, they are not required. The proposed form should be clear that the youth can provide any evidence, including a declaration from the youth, relevant records, transcripts, or other documents to support the youth's claim that he or she was a victim of human trafficking. The form must be clear that "no official documentation" is required to support this claim, in accordance with the language of Section 236.14(m).</p> <p>In addition, SB 1322 (Commercial sex acts: minors), that went into effect in January 2017, mandates that no child can be arrested or convicted of solicitation, prostitution, or</p>	<p>The committee agrees the instruction in item D should be clarified. Item D will be revised to read: "Fill out number 3 with information that describes how you were a victim of human trafficking. That information may, but does not need to, include information from police reports and delinquency of child welfare petitions. Check the box in 3 if you have documents to attach to this request."</p>

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		<p>loitering in California, (Penal Code sections 647(b) &(I) and 653.22).</p> <p>Accordingly, a youth with arrests or juvenile adjudications for any of these crimes should be considered a per se victim of human trafficking. The arrest record or judicial adjudication alone should be sufficient to prove the request for sealing the records. The proposed Judicial Council Instructions should provide clear instructions on the forms so that a youth understands that no additional evidence is required to support sealing of these records for these specific crimes.</p> <p>Request for Additional Action Court May Take</p> <p>The intent of the Legislature and the clear statutory language of Section 236.14(r) 4 allow a court granting relief pursuant to this section to take additional action as appropriate to carry out the purposes of this section. The availability of this additional relief is not included in the instructions to the proposed form; thus, the youth does not know that he or she may make a specific request for it. We propose the following</p>	<p>As it was circulated for comment, form JV-748 allows the court to grant the applicant's request without a hearing. As such, if the court finds that documentation of arrests or adjudications for the crimes noted by the commenter sufficient to meet the statutory standard, it may grant the request without a hearing. Since the form already allows for the relief suggested by the commenter, the committee declines to change the form.</p> <p>The committee agrees to include an additional instruction that states: "You may ask the court to take additional action. If you want the court take additional action, complete number 9."</p> <p>In addition to this instruction, item number 9 will be added to form JV-748. Item number 9 will read: "Under Penal Code section 236.14, I am asking the court for additional relief. The action I want the court to take and the reason I</p>

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			<p>clarifying language be included in the instructions and on the proposed form to ensure the youth better understand that additional relief is available but must be specifically requested.</p> <p>Request to Return Fines and Fees</p> <p>Under Section 236.14, petitioners are allowed to apply for relief even if they have not completed the terms of probation or paid outstanding fines or fees associated with the conviction. Many trafficking survivors have spent years trying to pay the fines and fees from their wrongful conviction. If the conviction is vacated, petitioners should be able to explicitly request a return of these fines and fees by the court except as is clarified in Section 236.14(i), "financial restitution ordered that benefited the victim of a nonviolent crime." A question on the proposed form should clarify to the court if the petitioner is (1) requesting the return of any fines or fees paid to the court and (2) the amount paid, if known.</p> <p>Proposed Order JV-749</p> <p>Section 236.14 (d) makes clear that a</p>	<p>want the court to take the action, is written below:”</p> <p>While the committee understands the basis of this request, Penal Code section 23.14 does not state that paid fines and fees should be reimbursed. In the absence of statutory language authorizing reimbursement for fines and fees already paid, it is beyond the Judicial Council’s purview to require such an order. Even where the purpose of legislation is to repeal certain fees, as in Senate Bill 190 ([Mitchell]; Stats. 2017, ch. 678), the court cannot order reimbursement of already paid fines and fees, in the absence of an explicit authorization. The committee agrees to revise form JV-749 to state that outstanding fines and fees related to dispositions that are vacated will be set aside and discharged.</p> <p>The committee agrees that instruction item F</p>

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			request can be granted by a Court without a hearing. This provision is an important provision of Section 236.14, as it can save the victim being re-traumatized by having to appear in court. Therefore, Item 1 of the proposed order should be updated to state that the order to vacate arrest or adjudication is granted without a hearing.	should be revised to state that the court “may” set a hearing. Section 236.14(d) authorizes the court to grant an unopposed petition without a hearing; however, 236.14(f) states that the court must set a hearing if there is opposition to the request or if the court deems it necessary. Furthermore, form JV-749 includes a waiver of appearance and an option for the applicant to appear by phone.
			Further, trafficking victims who are minors may still be on probation when the order for sealing is granted. To ensure that probation is efficiently terminated, the order should expressly state that the appropriate probation program must be notified and probation terminated.	The committee agrees that form JV-749 needs clarification. To make it clear that the disposition must also be vacated, number 4 on form JV-749 will be revised as follows: “The court [] grants [] denies the applicant’s request to dismiss the adjudication(s) and related petition(s) listed in the request. The court further orders the associated disposition(s) be vacated.
			The court should also have space on the order form to specifically order the return of all fines and fees associated with the adjudications in the petition.	As stated above, PC 236.14 does not state that fees and fines should be reimbursed.
			Process For Consolidating Petitions From Multiple Jurisdictions	As stated by the commenter, the directions section of form JV-748 states that the court is

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		<p>We are concerned about the limited, and in some cases, complete lack of guidance that the Judicial Council provides for applicants about (1) the requirement to serve this form and (2) how the arrests and adjudications will be properly consolidated. Noting that human trafficking commonly leads to multiple arrests and convictions across the state, the Legislature directed the courts to provide a streamlined process that would save the courts both time and money and avoid re-traumatization of human trafficking victims.</p>	<p>to serve the application, unless the applicant is represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p>
		<p>We applaud the Judicial Council in its instructions to form JV-748 that in the case of a petitioner without counsel, the court takes on responsibility to serve this form. However, in cases where an applicant has an attorney, the responsibility is then transferred back to the petitioner. We urge the Judicial Council to make this process uniform for all applicants, even those with counsel, by directing the court to undertake service in all cases and to coordinate the consolidation of the petitions.</p>	<p>Consolidation of the petitions is also addressed in the directions section of form JV-748; however, the committee will modify the form to clarify that the hearing will take place in the county where the application for relief is filed.</p> <p>As stated by the commenter, the directions section of form JV-748 states that the court is to serve the application, unless the applicant is represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p>
		<p>If the Judicial Council continues the policy</p>	<p>The committee agrees that it would be</p>

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			<p>of requiring petitioners with counsel to be responsible for service, then the Council should propose additional guidance and support for this process. For example, we recommend updating form JV-748 and other Judicial Council forms to provide clearer instructions to the applicant to serve the involved parties, certify this service, and clarify the date on which the court can deem the petition unopposed. Further, we suggest that the Judicial Council provide a sample stipulation that the petitioner can provide to prosecution and law enforcement agencies at the same time as service of the petition to further simplify the process of consolidating the petitions. If additional outreach is needed by the courts to secure court acceptance of the responsibility, then the court should have clear instructions on how to conduct this outreach.</p> <p>Coordination with the court by petitioner, a survivor of human trafficking and/or his or her likely pro bono or nonprofit legal service provider, will likely not be efficient or possible for counsel to secure in a timely manner.</p> <p>Given the complexities of this process and the likely need to coordinate in both adult</p>	<p>beneficial to include the date on which the petition may be deemed unopposed. The statute states that the petition may be considered unopposed if an opposition is not filed within 45 days of receipt of the application. To account for services by mail, the applicant may put a date that is 60 days from the date of filing. Form JV-748 will be revised to- include a place to include the date.</p>

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			and juvenile matters, we suggest that Judicial Council host a roundtable of practitioners to seek further input into this matter.	
4.	California Lawyers Association	AM	<p>The Executive Committee of the Family Law Section of the California Lawyers Association agrees with this proposal in general, but also has the following comments.</p> <p>a. INFO JV-464 We believe it needs an offset and/or “or” between the 2nd and 3rd bullet points immediately under “Court Jurisdiction Requirements” on page 1. Without that change, it is likely to confuse an otherwise eligible youth who wants to enter extended foster care but was never a delinquent.</p> <p>b. JV-466 We believe the applicability of Penal Code section 236.14 in #4 b should be made optional. The form is asking for something that may not be applicable. As proposed, a youth who was not a delinquent might be discouraged into thinking that the form must not apply to him or her since there was no underlying conviction. Use of an optional checkbox or inserting an “or” after a. would</p>	<p>No response required.</p> <p>The committee agrees that inserting “or” between the bullet points would eliminate any confusion and will revise the form accordingly.</p> <p>The committee agrees that number 4 on form JV-466 could be misleading and will insert a checkbox in front of 4b.</p>

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			<p>probably suffice. Inserting something like “if applicable” is another option to fix this issue. (Notably, the subsequent amended forms appropriately employ “or” and check boxes to differentiate Penal Code section 236.14 vacatur cases from other situations giving rise to foster care or other out-of-home placements during transition to majority.)</p> <p>c. Rule 5.903 In attempting to make clear the disallowance of the DA from proceedings following dismissal of delinquency jurisdiction after Penal Code section 236.14 vacatur, it uses the phrase “must not”. Since a DA is not permitted to attend such hearings, we believe that instead of “must not” the rule should say that the DA “is not permitted to appear...”</p> <p>d. Request for Specific Comments The Invitation to Comment requests comments on whether referring to nonminor dependents as “young people” is appropriate. Nonminor dependents probably would not object to that language, and referring to them as “youth” might be preferable to them. However, there seems to</p>	<p>The committee agrees with the proposed modification and will revise the form accordingly.</p> <p>No response required.</p>

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			<p>be consternation amongst those serving such young people over their status as “adults,” so “youth” might be too controversial to them (not the nonminor dependents themselves). In short, “young people” is accurate and non-pejorative, and we believe it is appropriate.</p> <p>The Invitation to Comment requests feedback about the adequacy of the 5-year sunset provision under rule 5.811. While 5 years sounds like it should be more than enough time, practice changes often trail changes to the law, so 7 years might be better. The worst-case scenario is that after 5 years no single case statewide would require application of Penal Code section 236.14 and the option would stand on the books unused for a couple of years. Worse yet would be some jurisdiction that loses institutional knowledge and reverts without a remedy. For that matter, no sunset provision might be better still.</p>	<p>As stated above, the committee is persuaded by the arguments that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>
5.	Children’s Law Center by Leslie Heimov, Executive Director and Julie McCormick, Policy Associate	AM	By way of background, CLC is a nonprofit legal services organization that serves as the voice for dependent children and youth in the foster care system. Our committed attorneys and other professional staff represent over 33,000 abused and neglected	No response required.

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			<p>children in the Los Angeles, Sacramento and Placer County foster care systems. Through our daily work, we have seen firsthand the challenges facing sexually exploited youth.</p> <p>This experience gives CLC critical information about the real-life experiences of trafficking victims and how the revisions to the proposed forms implementing PC 236.14 will impact survivors of human trafficking, especially juveniles.</p> <p>From our experience working with trafficking victims, we are also well aware of the disproportionately large number of crimes for which individuals are arrested or convicted solely as a result of their trafficking status. In a survey of its membership, the National Survivor Network, reports that 40% of the respondents were arrested and/ or convicted of crimes 9 times or more while they were being trafficked.</p> <p>In New York, the state with the oldest vacatur law addressing human trafficking survivors, the Urban Institute documented</p>	

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			<p>that since the law was enacted in 2010, the state had vacated 1,598 convictions. Those convictions were imposed on the records of only 94 survivors. Survivors had an average of 21 convictions on their records, the fewest had one, while one client had 147.</p> <p>The frequency of arrest and conviction of trafficking survivors means that the process of clearing arrest records and vacating adult convictions and juvenile adjudications is a complex and time consuming process for both advocates and survivors. It is thus essential that the Judicial Council present clear information and guidance for undertaking the process in the rules and forms it proposes to implement PC 236.14. The concrete suggestions we offer below are provided with firsthand knowledge of the complexities of arrests and/or criminal convictions in the human trafficking context.</p> <p>Overall Comments on Process/ Confidentiality</p> <p>First, we would like to commend the Judicial Council for creating new forms to establish a uniform process for vacatur for</p>	

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			minor victims of human trafficking. This form of relief, as well as continued access to extended foster care benefits, is essential for both sex and labor trafficking victims' ability to recover and rebuild their lives after a trafficking experience. We also agree with the Council's assessment that the confidentiality provision already in place for juvenile proceedings is sufficient to protect the confidentiality concerns most survivors face and that no additional provisions are needed to protect the names of the young person seeking to have their juvenile adjudications or arrests sealed. In our experience, filing petitions under PC 236.14 is a difficult, traumatic, and re-triggering experience for survivors. We thus commend the thoughtful, streamlined process the Council proposes to ensure that minors can access this new form of relief and maintain eligibility for extended foster benefits. However, we are concerned about the impact of some of the proposed practices on the desire or ability of some survivors, particularly juveniles, to access the mandated relief. Accordingly, below, we provide further comments and specific suggestions to strengthen the proposed rules and forms.	

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	Commentator	Position	Comment	Committee Response
			<p>Sunset of Provisions</p> <p>Based on our experience working with human trafficking survivors and the complex systemic change that is needed to ensure that sex and labor trafficking survivors are no longer arrested or convicted of any crimes their traffickers force them to commit, we believe that the assumption underlying the Judicial Council's suggested 5-year sunset provision for petitions to be filed under PC 236.14 is in error. We strongly recommend that the sunset provision be deleted.</p> <p>In its comments to the proposed rules and forms, the Council speculates: "In light of the decriminalization of prostitution for juveniles in conjunction with the recent efforts to identify victims of human trafficking and provide them services through child welfare rather than juvenile justice, it is anticipated that (1) going forward there will be only rare circumstances where delinquency petitions are filed against victims of human trafficking, and (2) it will only take a few years for those young people who are</p>	<p>As stated above, the committee is persuaded by the arguments that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

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			<p>eligible for vacatur to petition for that relief.”</p> <p>We respectfully submit that this assumption fails to recognize the variety of crimes for which trafficking victims are routinely charged. The Judicial Council assumes that the main crime trafficking victims are arrested and/or convicted of is "prostitution, solicitation or loitering". "PC 236.14, however, was expressly designed to allow for arrests and convictions to be vacated for all non-violent offenses, precisely because trafficking victims are arrested and convicted for a broad range of crimes undertaken.</p> <p>under duress for their trafficker's benefit. A non-violent offense is any offense not listed in CA Penal Code 667.5(C) (See PC 236.14(t)(i) defining nonviolent offense.)</p> <p>The new rules and guidance proposed by the Judicial Council should consider the broad range of crimes covered by PC 236.14 in determining the propriety of a sunset provision.</p> <p>Form our "on the ground" experience both before and after enactment of SB 1322, (Mitchell. Commercial sex acts: minors),</p>	

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SP18-24

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			<p>law enforcement often arrests trafficking victims for many crimes other than prostitution, solicitation or loitering. While the prohibition against arresting trafficked minors for these crimes in California is a good start, it is just a first step in ensuring that all minors are properly screened by law enforcement and our juvenile delinquency system to make certain they receive services through the child dependency system rather than the criminal justice system. In our experience, both sex and labor trafficking victims are forced to commit a broad range of crimes by their trafficker and for their trafficker's benefit. These range from forced stealing, drug cultivation or sales, identity theft or fraud, truancy, and other trafficking-related offenses. The complexities of this forced criminality common to so many trafficking victims is still not properly understood in California or nationally and underscores the need for provisions like PC 236.14 to be accessible to child victims of trafficking for the foreseeable future.</p> <p>Supporting this ongoing experience is data from the National Survivor Network Survey (NSN) relating to juvenile arrests and convictions. The NSN is an organization</p>	

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			<p>whose only members are human trafficking survivors. It has representatives in over 37 states. A survey of its member respondents highlighted that 41.6% reported being arrested as minors. When asked about the specific nature of their arrests, although 65.3% respondents indicated they had been arrested for prostitution, 42.7% for solicitation, and 25.3% for intent to solicit, 40% also reported being arrested for drug possession and 18.7% for drug sales. Moreover, fully 60% reported being arrested for other crimes. Based on these statistics, the NSN concluded that traffickers forced their victims to participate in a multitude of crimes in addition to prostitution, particularly drug sales and possession.</p> <p>A 2017 study of 10 cities in the United States of Covenant House clients, a runaway and homeless youth provider, provides additional information showing that child labor or sex trafficking victims are likely to be arrested for crimes in addition to prostitution, solicitation and loitering. Oakland and Los Angeles were included in the study, thus providing some data that is California specific. The Covenant House report highlights that out of 270 youth</p>	

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			<p>respondents, 17% had been sex trafficked, 6% had been labor trafficked, and 20% had experienced both labor and sex trafficking. Interestingly, the data specific to Oakland showed a higher percentage of respondents trafficked for labor than for sex: 19% of youth respondents reported being labor trafficked in Oakland versus 15% for sex trafficking. The study further concluded that:</p> <p>The vast majority (81%) of labor trafficking cases reported in this study were instances of forced drug dealing. Nearly 7% (42) of all youth interviewed had been forced into working in the drug trade. Forced drug dealing occurred through familial and cultural coercion as well as through the violence of suppliers and gangs. This data highlights that in California we have not even begun to address labor trafficking based on coerced drug dealing in our youth population further evidencing the likely need for these youth to have access to sealing their records beyond the five years proposed by the Judicial Council.</p> <p>Finally, in our experience, because of the nature of the crimes and control by their</p>	

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			<p>traffickers, individuals often do not self-identify as victims. Some of them further believe they were actually complicit in criminal acts that their traffickers forced them to commit, while others continually lie about their trafficking experience to protect their trafficker. This is often especially the case with child victims. Even with the most extensive screening and training for law enforcement, and others involved in child delinquency and dependency proceedings, the dynamics and indicators of all forms of human trafficking are so complex and often hidden that these experts have a difficult time identifying victims. This means that the dynamic of the crime itself requires a system in place to correct errors that are likely to occur with this victim population as was the designed purposed of PC 236.14.</p> <p>In conclusion, we are highly concerned about the Judicial Council's recommended sunset provision we believe that extensive systemic change is needed so that child trafficking survivors are not arrested or/convicted of the multitude of crimes that traffickers force them to commit. It is our belief that the necessary changes will take far more than five years to be implemented.</p>	

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			<p>Based on our experience, we believe that the system may never identify all victims in a timely manner given the nature of trafficking dynamics. Accordingly, we firmly believe the PC 236.14 petition process should not be subject to any sunset provision, but rather the sealing of records option must be available in perpetuity.</p> <p>Suggested Language:</p> <p>Strike the following:</p> <p>Sunset Provision Conduct of the hearing</p> <p>(1) Unless amended or reenacted by Judicial Council action effective after the effective date of this rule, this rule is repealed effective January 1, 2020.</p> <p>Proposed Form JV-748</p> <p>We make the following suggestions and comments below about the Proposed Form JV-748.</p> <p>Inclusive Language and Simplicity of Forms</p> <p>We commend the Judicial Council for</p>	No response required.

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			<p>asking for specific comments and feedback on its proposed language and simplicity of its forms.</p> <p>We believe that identifying the petitioner as a “young person” is a sensitive and thoughtful choice by the Judicial Council to refer to this population. Many trafficking victims do not self-identify as victims and/or are too often pejoratively referred to as "defendants" in these types of proceedings. Using the phrase “young person” is both neutral and nonjudgmental.</p> <p>In reviewing the overall language of the forms, and the instructions to the forms, CLC's assessment is that it is straight-forward and easy to understand and thus "youth friendly”. However, CLC believes that in some places the forms misstate or fail to include the full requirements of the law and should be modified as suggested below.</p> <p>Evidence to Show Youth Was A Victim of Human Trafficking</p> <p>The instructions for the form Letter D</p>	<p>The committee agrees the instruction in item D should be clarified. Item D will be revised to read: “Fill out number 3 with information that describes how you were a victim of</p>

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			<p>appears to misstate the law in requiring a young person to use only police reports, delinquency petitions, or child welfare petitions to describe how the youth was a victim of human trafficking. Although these documents are permissible, they are not required. The proposed form should be clear that the youth can provide any evidence, including a declaration from the youth, relevant records, transcripts, or other documents to support the youth's claim that he or she was a victim of human trafficking. The form must be clear that "no official documentation" is required to support this claim in accordance with the language of PC 236.14(m).</p> <p>In addition, SB 1322 (Commercial sex acts: minors), that went into effect in January 2017, mandates that no child can be arrested or convicted of solicitation, prostitution or loitering in California, (PC 647(b) & (l) and 653.22). Accordingly, a youth with arrests or juvenile adjudications for any of these crimes should be considered a per se victim of human trafficking. The arrest record or judicial adjudication alone should be sufficient to prove the request for sealing the records. The proposed Judicial Council</p>	<p>human trafficking. That information may, but does not need to, include information from police reports and delinquency of child welfare petitions. Check the box in 3 if you have documents to attach to this request."</p> <p>As it was circulated for comment, form JV-748 allows the court to grant the applicant's request without a hearing. As such, if the court finds that documentation of arrests or adjudications for the crimes noted by the commenter sufficient to meet the statutory standard, it may grant the request without a hearing. Since the form already allows for the relief suggested by the commenter, the committee declines to change the form.</p>

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			<p>Instructions should provide clear instructions on the forms so that a youth understands that no additional evidence is required to support sealing of these records for these specific crimes.</p> <p>Suggested Language:</p> <p>D. Fill out number 3 with the dates of the police reports, delinquency petitions, or child welfare petitions that describe how you were a victim of human trafficking. Check box three if you have police reports or petitions to attach to this request. Be aware that no official documentation is needed to show that you were a victim of human trafficking. A Court can consider other evidence such as statements from you about your experience or other information you may have to show you were a victim of human trafficking. If you were arrested or convicted of PC 647(b), (l) and 653.22 be aware that you do not have to provide any additional information unless you have other arrests and convictions you also hope to have removed from your record.</p> <p>1. Add: I have attached other information</p>	<p>The language in D will be revised as set forth above.</p>

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			<p>such as my own statement that describes how I was a victim of human trafficking and that the crime(s) committed was a direct result of my being a victim.</p> <p>Request for Additional Action Court May Take</p> <p>The intent of the legislature and the clear statutory language of section 236.14 (r) allows a court granting relief pursuant to this section to take additional action as appropriate to carry out the purposes of this section. The availability of this additional relief is not included in the instructions to the proposed form, thus, the youth does not know that he or she may make a specific request for it. We propose the following clarifying language be included in the instructions and on the proposed form to ensure a better understanding by youth that additional relief is available but must be specifically requested.</p> <p>Suggested Language:</p> <p>Insert in the instructions Letter H as follows: H. The Court is allowed to take additional action as appropriate to carry out</p>	<p>The committee agrees to include an additional instruction that states: “You may ask the court to take additional action. If you want the court take additional action, complete number 9.”</p> <p>In addition to this instruction, item number 9 will be added to form JV-748. Item number 9 will read: “Under Penal Code section 236.14, I am asking the court for additional relief. The action I want the court to take and the reason I want the court to take the action, is written below:”</p>

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		<p>the purposes of this relief. Are you asking for any additional relief from this court?</p> <p>Yes No</p> <p>If yes, describe this request and provide supporting documentation as needed. If necessary attach additional pages.</p> <p>Request to Return Fines and Fees</p> <p>Under PC 236.14, petitioners are allowed to apply for relief even if they have not completed the terms of probation or paid outstanding fines or fees. Many trafficking victims have spent years trying to pay the fines and fees ordered. If the delinquency petition is sealed under PC 236.14, a youth should be able to explicitly request a return of these fines and fees by the court unless, as provided in Section 236.14(i), it “is financial restitution ordered that benefited the victim of a nonviolent crime.” A question on the Judicial Council proposed form should clarify to the court if the petitioner is (1) requesting the return of any fines or fees paid to the court and (2) the amount paid, if known.</p>	<p>While the committee understands the basis of this request, Penal Code section 23.14 does not state that paid fines and fees should be reimbursed. In the absence of statutory language authorizing reimbursement for fines and fees already paid, it is beyond the court’s purview to make such an order. Even where the purpose of legislation is to repeal certain fees, as in Senate Bill 190, in the absence of an explicit authorization, the court cannot order reimbursement of already paid fines and fees. The committee agrees to revise form JV-749 to state that outstanding fines and fees related to dispositions that are vacated will be set aside and discharged.</p>

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			<p>Suggested Language:</p> <p>Insert in Instructions to the form Letter I as follows: I. The Court is allowed to return any fines and fees you paid as a result of your delinquency adjudication. Please let the Court know if you have paid any fines and fees and the amount if known.</p> <p>7. I am requesting the court return fines and fees paid as a term of my delinquency adjudication.</p> <p>Yes/No</p> <p>I request the return in the amount (Insert if Known)</p> <p>Proposed Order JV-749</p> <p>PC 236.14 (d) makes clear that a request can be granted by a Court without a hearing.⁶ This provision is an important provision of PC 236.14 as it can save the victim being re-traumatized by having to appear in court. Therefore, Question 1 of the proposed order should be updated to state that the order to vacate arrest or adjudication can be granted without a hearing if it is uncontested and the court makes the decision not to hold a</p>	<p>Section 236.14(d) authorizes the court to grant an unopposed petition without a hearing; however, 236.14(f) states that the court must set a hearing if there is opposition to the request or if the court deems it necessary. Furthermore, form JV-749 includes a waiver of appearance and an option for the applicant to appear by phone. However, the committee agrees that instruction item F should be revised to state that the court “may”</p>

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			<p>order form to specifically order the return of all fines and fees associated with the adjudications in the petition.</p> <p>Suggested Language:</p> <p>Change number 7 to 8. Insert as number 7 the following language: 7. The Court orders the return of fines and fees for the adjudications listed in the petition in the amount of (INSERT AMOUNT)</p> <p>JV-464-INFO</p> <p>Suggested Language:</p> <p>Page 1 under Court Jurisdiction Requirements add “OR” after “your case was vacated (Penal Code section 236.14).</p> <p>JV-472</p> <p>Suggested Language</p> <p>Page 1, #4.b. – change “or” to “and” at the end of the sentence.</p> <p>JV-682</p>	<p>The committee agrees to modify form JV-464 as suggested.</p> <p>To clarify 4b. on form JV-472, the committee will include a checkbox in front of it.</p>

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			<p>Question about current language</p> <p>Page 2, #9.a.(1) - if the youth meets this component then the youth would not need to also meet the requirement under subpart (4), correct? So should there be an “OR” after subpart (1) with the subpart (4) language to follow immediately after?</p> <p>Process For Consolidating Petitions From Multiple Jurisdictions</p> <p>We are concerned about the limited, and in some cases, complete lack of guidance that the Judicial Council provides for applicants about (1) the requirement to serve this form and (2) how the arrests and adjudications will be properly consolidated. Noting that human trafficking commonly leads to multiple arrests and convictions across the state, the legislature directed the courts to provide a streamlined process that would save the courts both time and money and avoid re-traumatization of human trafficking victims.</p> <p>We applaud the Judicial Council in its instructions to form JV-748 that in the case</p>	<p>The form will be revised accordingly.</p> <p>As noted by the commenter, the directions section of form JV-748 states that the court is to serve the application, unless the applicant is represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p> <p>Consolidation of the petitions is also addressed in the directions section of form JV-748; however, the committee will modify the form to clarify that the hearing will take place in the county where the application for relief is filed.</p>

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			<p>of a petitioner without counsel the court takes on responsibility to serve this form. However, in cases where an applicant has an attorney, the responsibility is then transferred back to the petitioner. We urge the Judicial Council to make this process uniform for all applicants, even those with counsel, by directing the court to undertake service in all cases and to coordinate the consolidation of the petitions.</p> <p>If the Judicial Council continues the policy of requiring petitioners with counsel to be responsible for service, than additional guidance and support for this process should be proposed by the Council. For example, we recommend updating form JV-748 and other Judicial Council forms to provide clearer instructions to the applicant to serve the involved parties, certify this service, and to clarify the date on which the court can deem the petition unopposed. Further, we suggest that the Judicial Council provide a sample stipulation that can be provided by the petitioner to prosecution and law enforcement agencies at the same time of service of the petition to further simplify the process of consolidating the petitions. If additional outreach is needed by the courts</p>	<p>As stated by the commenter, the directions section of form JV-748 states that the court is to serve the application, unless the applicant is represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p>

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			<p>to secure court acceptance of the responsibility, then the court should have clear instructions on how to conduct this outreach. Coordination with the court by petitioner, a survivor of human trafficking and/or his or her likely pro bono or nonprofit legal service provider, will likely not be efficient or possible for counsel to secure in a timely manner.</p> <p>Given the complexities of this process and the likely need to coordinate in both adult and juvenile matters we suggest that Judicial Council host a round table of practitioners to seek further input into this matter.</p>	
6.	Coalition to Abolish Slavery & Trafficking (CAST) by Kay Buck, Executive Director	AM	CAST was involved in drafting SB 823, the bill that became Penal Code 236.14. Since it came into effect in January 2017, CAST has actively pursued relief for its clients under this section, successfully obtaining petitions for relief from arrest and conviction records for human trafficking victims. This experience gives CAST critical information about the real-life experiences of trafficking victims and how the revisions to	No response required.

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SP18-24

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			<p>the proposed forms implementing PC 236.14 will impact survivors of human trafficking, especially juveniles.</p> <p>From its experience working with trafficking victims, CAST is also well aware of the disproportionately large number of crimes for which individuals are arrested or convicted solely as a result of their trafficking status. In a survey of its membership, the National Survivor Network, a CAST-hosted project, reports that 40% of the respondents were arrested and/ or convicted of crimes 9 times or more while they were being trafficked. In New York, the state with the oldest vacatur law addressing human trafficking survivors, the Urban Institute documented that since the law was enacted in 2010, the state had vacated 1,598 convictions. Those convictions were imposed on the records of only 94 survivors. Survivors had an average of 21 convictions on their records, the fewest had one, while one client had 147.</p> <p>CAST's own data from a survey of arrest and conviction records of 65 of its clients found that human trafficking victims are arrested seven times more frequently for</p>	

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SP18-24

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			<p>activity directly related to their trafficking than for non-trafficking activity. Victims are often detained by well-intentioned officers seeking to remove them from the streets and from the control of their traffickers. Sadly, the records show that some victims had been arrested 30 or 40 times in only a few years under the control of their traffickers.</p> <p>The frequency of arrest and conviction of trafficking survivors means that the process of clearing arrest records and vacating adult convictions and juvenile adjudications is a complex and time consuming process for both advocates and survivors. It is thus essential that the Judicial Council present clear information and guidance for undertaking the process in the rules and forms it proposes to implement PC 236.14. The concrete suggestions CAST offers below are provided with firsthand knowledge of the complexities of arrests and/or criminal convictions in the human trafficking context. CAST hopes that the Judicial Council will recognize our extensive experience in the area and adopt our suggestions.</p> <p>Overall Comments on Process/</p>	

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SP18-24

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			<p>Confidentiality</p> <p>First, CAST would like to commend the Judicial Council for creating new forms to establish a uniform process for vacatur for minor victims of human trafficking. This form of relief, as well as continued access to extended foster care benefits, is essential for both sex and labor trafficking victims' ability to recover and rebuild their lives after a trafficking experience. CAST further agrees with the Council's assessment that the confidentiality provisions already in place for juvenile proceedings is sufficient to protect the confidentiality concerns most survivors face and that no additional provisions are needed to protect the names of the young person seeking to have their juvenile adjudications or arrests sealed. In CAST's experience, filing petitions under PC 236.14 is a difficult, traumatic, and re-triggering experience for survivors. CAST thus commends the thoughtful, streamlined process the Council proposes to ensure that minors can access this new form of relief and maintain eligibility for extended foster benefits. However, CAST is concerned about the impact of some of the proposed practices on the ability of some survivors,</p>	<p>No response required.</p>

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SP18-24

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			<p>particularly juveniles, to access the mandated relief. Accordingly, below, CAST is providing further comments and specific suggestions to strengthen the proposed rules and forms.</p> <p>Sunset of Provisions</p> <p>Based on CAST’s experience working with human trafficking survivors and the complex systemic change that is needed to ensure that sex and labor trafficking survivors are no longer arrested or convicted of any crimes their traffickers force them to commit, CAST believes that the assumption underlying the Judicial Council's suggested 5-year sunset provision for petitions to be filed under PC 236.14 is in error. CAST strongly recommends that the sunset provision be deleted.</p> <p>In its comments to the proposed rules and forms, the Council speculates: “In light of the decriminalization of prostitution for juveniles in conjunction with the recent efforts to identify victims of human trafficking and provide them services through child welfare rather than juvenile justice, it is anticipated that (1) going</p>	<p>As stated above, the committee is persuaded by the arguments that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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SP18-24

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			<p>forward there will be only rare circumstances where delinquency petitions are filed against victims of human trafficking, and (2) it will only take a few years for those young people who are eligible for vacatur to petition for that relief.”</p> <p>CAST respectfully submits that this assumption fails to recognize the variety of crimes for which trafficking victims are routinely charged. The Judicial Council assumes that the main crime trafficking victims are arrested and/or convicted of is prostitution, solicitation or loitering. PC 236.14, however, was expressly designed to allow for arrests and convictions to be vacated for all non-violent offenses, precisely because trafficking victims are arrested and convicted for a broad range of crimes undertaken under duress for their trafficker’s benefit. A non-violent offense is any offense not listed in CA Penal Code 667.5(C)(See PC 236.14(t)(i) defining nonviolent offense.) The new rules and guidance proposed by the Judicial Council should consider the broad range of crimes covered by PC 236.14 in determining the propriety of a sunset provision.</p>	

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			<p>From CAST's on the ground experience both before and after enactment of SB 1322, (Mitchell. Commercial sex acts: minors), law enforcement often arrests trafficking victims for many crimes other than prostitution, solicitation or loitering. While the prohibition against arresting trafficked minors for these crimes in California is a good start, it is just a first step in ensuring that all minors are properly screened by law enforcement and our juvenile delinquency system to make certain they receive services through the child dependency system rather than the criminal justice system. In our experience, both sex and labor trafficking victims are forced to commit a broad range of crimes by their trafficker and for their trafficker's benefit. These range from forced stealing, drug cultivation or sales, identity theft or fraud, truancy, and other trafficking-related offenses. The complexities of this forced criminality common to so many trafficking victims is still not properly understood in California or nationally and underscores the need for provisions like PC 236.14 to be accessible to child victims of trafficking for the foreseeable future.</p>	

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			<p>Supporting CAST’s ongoing experience is data from the National Survivor Network Survey (NSN) relating to juvenile arrests and convictions. The NSN is an organization whose only members are human trafficking survivors. It has representatives in over 37 states. A survey of its member respondents highlighted that 41.6% reported being arrested as minors. When asked about the specific nature of their arrests, although 65.3% respondents indicated they had been arrested for prostitution, 42.7% for solicitation, and 25.3% for intent to solicit, 40% also reported being arrested for drug possession and 18.7% for drug sales. Moreover, fully 60% reported being arrested for other crimes. Based on these statistics, the NSN concluded that traffickers forced their victims to participate in a multitude of crimes in addition to prostitution, particularly drug sales and possession.</p> <p>A 2017 study of 10 cities in the United States of Covenant House clients, a runaway and homeless youth provider, provides additional information showing that child labor or sex trafficking victims are likely to be arrested for crimes in addition to</p>	

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			<p>prostitution, solicitation and loitering. Oakland and Los Angeles were included in the study, thus providing some data that is California specific. The Covenant House report highlights that out of 270 youth respondents, 17% had been sex trafficked, 6% had been labor trafficked, and 20% had experienced both labor and sex trafficking. Interestingly, the data specific to Oakland showed a higher percentage of respondents trafficked for labor than for sex: 19% of youth respondents reported being labor trafficked in Oakland versus 15% for sex trafficking. The study further concluded that:</p> <p>The vast majority (81%) of labor trafficking cases reported in this study were instances of forced drug dealing. Nearly 7% (42) of all youth interviewed had been forced into working in the drug trade. Forced drug dealing occurred through familial and cultural coercion as well as through the violence of suppliers and gangs.</p> <p>This data highlights that in California we have not even begun to address labor trafficking based on coerced drug dealing in our youth population further evidencing the</p>	

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			<p>likely need for these youth to have access to sealing their records beyond the five years proposed by the Judicial Council.</p> <p>Finally, in CAST's experience, because of the nature of the crimes and control by their traffickers, individuals often do not self-identify as victims. Some of them further believe they were actually complicit in criminal acts that their traffickers forced them to commit, while others continually lie about their trafficking experience to protect their trafficker. This is often especially the case with child victims. Even with the most extensive screening and training for law enforcement, and others involved in child delinquency and dependency proceedings, the dynamics and indicators of all forms of human trafficking are so complex and often hidden that these experts have a difficult time identifying victims. This means that the dynamic of the crime itself requires a system in place to correct errors that are likely to occur with this victim population as was the designed purposed of PC 236.14.</p> <p>In conclusion, CAST is highly concerned about the Judicial Council's recommended sunset provision. CAST believes that extensive systemic change is needed so that child trafficking survivors are not arrested</p>	

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		<p>or/convicted of the multitude of crimes that traffickers force them to commit. It is our belief that the necessary changes will take far more than five years to be implemented. Based on our experience, CAST believes that the system may never identify all victims in a timely manner given the nature of trafficking dynamics. Accordingly, we firmly believe the PC 236.14 petition process should not be subject to any sunset provision, but rather the sealing of records option must be available in perpetuity.</p> <p>Suggested Language: Strike the following: Sunset Provision Conduct of the hearing (1) Unless amended or reenacted by Judicial Council action effective after the effective date of this rule, this rule is repealed effective January 1, 2020.</p> <p>Proposed Form JV-748 CAST makes the following suggestions and comments below about the Proposed Form JV-748.</p> <p>Inclusive Language and Simplicity of Forms</p> <p>CAST initially commends the Judicial Council for asking for specific comments and feedback on its proposed language and simplicity of its forms.</p>	<p>As stated above, the committee agrees to remove the sunset provision from the form.</p> <p>No response required.</p>

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			<p>CAST believes that identifying the petitioner as a “young person” is a sensitive and thoughtful choice by the Judicial Council to refer to this population. Many trafficking victims do not self-identify as victims and/or are too often pejoratively referred to as "defendants" in these types of proceedings. Using the phrase “young person” is both neutral and nonjudgmental. CAST further solicited feedback from the survivor advocates with whom we work, who are either young people who themselves were trafficked or who work with trafficked youth, and the responses it received about the term "young person" was consistently approved. For example, a response that CAST received from one of its survivor advocates trafficked as a young person was: “My opinion is 'young person' is definitely inclusive and non-gendered so absolutely a good phrase to use.”</p> <p>In reviewing the overall language of the forms, and the instructions to the forms, CAST's assessment is that it is straight-forward and easy to understand and thus "youth friendly." However, CAST believes that some places in the forms misstate or</p>	No response required.

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			<p>fail to include the full requirements of the law and should be modified as suggested below.</p> <p>Evidence to Show Youth Was A Victim of Human Trafficking</p> <p>The instructions for the form Letter D appears to misstate the law in requiring a young person to use only police reports, delinquency petitions, or child welfare petitions to describe how the youth was a victim of human trafficking. Although these documents are permissible, they are not required. The proposed form should be clear that the youth can provide any evidence, including a declaration from the youth, relevant records, transcripts, or other documents to support the youth's claim that he or she was a victim of human trafficking. The form must be clear that "no official documentation" is required to support this claim in accordance with the language of PC 236.14(m) .</p> <p>In addition, SB 1322 (Commercial sex acts: minors), that went into effect in January 2017, mandates that no child can be arrested or convicted of solicitation, prostitution or</p>	<p>The committee agrees the instruction in item D should be clarified. Item D will be revised to read: "Fill out number 3 with information that describes how you were a victim of human trafficking. That information may, but does not need to, include information from police reports and delinquency of child welfare petitions. Check the box in 3 if you have documents to attach to this request."</p> <p>As it was circulated for comment, form JV-748 allows the court to grant the applicant's request without a hearing. As such, if the court finds that documentation of arrests or</p>

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			<p>loitering in California, (PC 647(b)&(l) and 653.22). Accordingly, a youth with arrests or juvenile adjudications for any of these crimes should be considered a per se victim of human trafficking. The arrest record or judicial adjudication alone should be sufficient to prove the request for sealing the records. The proposed Judicial Council Instructions should provide clear instructions on the forms so that a youth understands that no additional evidence is required to support sealing of these records for these specific crimes.</p> <p>Suggested Language:</p> <p>D. Fill out number 3 with the dates of the police reports, delinquency petitions, or child welfare petitions that describe how you were a victim of human trafficking. Check box three if you have police reports or petitions to attach to this request. Be aware that no official documentation is needed to show that you were a victim of human trafficking. A Court can consider other evidence such as statements from you about your experience or other information you may have to show you were a victim of human trafficking. If you were arrested or</p>	<p>adjudications for the crimes noted by the commenter sufficient to meet the statutory standard, it may grant the request without a hearing. Since the form already allows for the relief suggested by the commenter, the committee declines to change the form.</p>

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			<p>convicted of PC 647(b), (l) and 653.22 be aware that you do not have to provide any additional information unless you have other arrests and convictions you also hope to have removed from your record.</p> <p>1. Add: I have attached other information such as my own statement that describes how I was a victim of human trafficking and that the crime(s) committed was a direct result of my being a victim.</p> <p>Request for Additional Action Court May Take</p> <p>The intent of the legislature and the clear statutory language of section 236.14 (r) allows a court granting relief pursuant to this section to take additional action as appropriate to carry out the purposes of this section. The availability of this additional relief is not included in the instructions to the proposed form, thus, the youth does not know that he or she may make a specific request for it. CAST proposes the following clarifying language be included in the instructions and on the proposed form to ensure a better understanding by youth that</p>	<p>The committee agrees to include an additional instruction that states: “You may ask the court to take additional action. If you want the court take additional action, complete number 9.”</p> <p>In addition to this instruction, item number 9 will be added to form JV-748. Item number 9 will read: “Under Penal Code section 236.14, I am asking the court for additional relief. The action I want the court to take and the reason I want the court to take the action, is written below:”</p>

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			<p>additional relief is available but must be specifically requested.</p> <p>Suggested Language:</p> <p>Insert in the instructions Letter H as follows: H. The Court is allowed to take additional action as appropriate to carry out the purposes of this relief. Are you asking for any additional relief from this court?</p> <p>Yes No</p> <p>If yes, describe this request and provide supporting documentation as needed. If necessary attach additional pages.</p> <p>Request to Return Fines and Fees</p> <p>Under PC 236.14, petitioners are allowed to apply for relief even if they have not completed the terms of probation or paid outstanding fines or fees. Many trafficking victims have spent years trying to pay the fines and fees ordered. If the delinquency petition is sealed under PC 236.14, a youth should be able to explicitly request a return of these fines and fees by the court unless,</p>	<p>While the committee understands the basis of this request, Penal Code section 23.14 does not state that paid fines and fees should be reimbursed. In the absence of statutory language authorizing reimbursement for fines and fees already paid, it is beyond the Judicial Council's purview to require such an order. Even where the purpose of legislation is to repeal certain fees, as in Senate Bill 190</p>

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			<p>as provided in Section 236.14(i), it “is financial restitution ordered that benefited the victim of a nonviolent crime.” A question on the Judicial Council proposed form should clarify to the court if the petitioner is (1) requesting the return of any fines or fees paid to the court and (2) the amount paid, if known.</p> <p>Suggested Language:</p> <p>Insert in Instructions to the form Letter I as follows: I. The Court is allowed to return any fines and fees you paid as a result of your delinquency adjudication. Please let the Court know if you have paid any fines and fees and the amount if known.</p> <p>7. I am requesting the court return fines and fees paid as a term of my delinquency adjudication.</p> <p>Yes/No</p> <p>I request the return in the amount _____(Insert if Known)</p> <p>Proposed Order JV-749</p>	<p>([Mitchell]; Stats. 2017, ch. 678), the court cannot order reimbursement of already paid fines and fees, in the absence of an explicit authorization. The committee agrees to revise form JV-749 to state that outstanding fines and fees related to dispositions that are vacated will be set aside and discharged.</p>

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		<p>PC 236.14 (d) makes clear that a request can be granted by a Court without a hearing. This provision is an important provision of PC 236.14 as it can save the victim being re-traumatized by having to appear in court. Therefore, Question 1 of the proposed order should be updated to state that the order to vacate arrest or adjudication can be granted without a hearing if it is uncontested and the court makes the decision not to hold a hearing.</p> <p>Suggested Language:</p> <p>(1) The Applicant and/or counsel were personally present at the hearing, or appeared by phone or video conference or</p> <p>The court determined the matter without a hearing as allowed under 236.14(d)</p> <p>Further, trafficking victims who are minors may still be on probation when the order for sealing is granted. To ensure that probation is efficiently terminated, the order should expressly state that the appropriate probation program must be notified and probation terminated.</p>	<p>Section 236.14(d) authorizes the court to grant an unopposed petition without a hearing; however, 236.14(f) states that the court must set a hearing if there is opposition to the request or if the court deems it necessary. Furthermore, form JV-749 includes a waiver of appearance and an option for the applicant to appear by phone. However, the committee agrees that instruction item F should be revised to state that the court “may” set a hearing.</p> <p>The committee agrees that form JV-749 needs clarification. To make it clear that the disposition must also be vacated, number 4 on form JV-749 will be revised as follows: “The court <input type="checkbox"/> grants <input type="checkbox"/> denies the applicant’s request to dismiss the adjudication(s) and related petition(s) listed in the request. The</p>

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			<p>about (1) the requirement to serve this form and (2) how the arrests and adjudications will be properly consolidated. Noting that human trafficking commonly leads to multiple arrests and convictions across the state, the legislature directed the courts to provide a streamlined process that would save the courts both time and money and avoid re-traumatization of human trafficking victims.</p> <p>CAST applauds the Judicial Council in its instructions to form JV-748 that in the case of a petitioner without counsel the court takes on responsibility to serve this form. However, in cases where an applicant has an attorney, the responsibility is then transferred back to the petitioner. CAST urges the Judicial Council to make this process uniform for all applicants, even those with counsel, by directing the court to undertake service in all cases and to coordinate the consolidation of the petitions.</p> <p>If the Judicial Council continues the policy of requiring petitioners with counsel to be responsible for service, than additional guidance and support for this process should be proposed by the Council. For example,</p>	<p>represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p> <p>Consolidation of the petitions is also addressed in the directions section of form JV-748; however, the committee will modify the form to clarify that the hearing will take place in the county where the application for relief is filed.</p> <p>As stated by the commenter, the directions section of form JV-748 states that the court is to serve the application, unless the applicant is represented by an attorney. While the committee understands the desire to have the court effect service even when the applicant is represented, such a requirement would place an undue burden on court staff.</p>

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			<p>CAST recommends updating form JV-748 Judicial Council forms to provide clearer instructions to the applicant to serve the involved parties, certify this service, and to clarify the date on which the court can deem the petition unopposed. Further, CAST suggests that the Judicial Council provide a sample stipulation that can be provided by the petitioner to prosecution and law enforcement agencies at the same time of service of the petition to further simplify the process of consolidating the petitions. If additional outreach is needed by the courts to secure court acceptance of consolidation , then the court should have clear instructions on how to conduct this outreach and propose a system that allows for e-filing and notification across multiple jurisdictions. Coordination with the court by petitioner, a survivor of human trafficking and/or his or her likely pro bono or nonprofit legal service provider, will likely not be efficient or possible for counsel to secure in a timely manner.</p> <p>Conclusion</p> <p>Thank you for considering these comments</p>	

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SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			when revising the forms implementing PC 236.14. CAST, and particularly the survivors we serve, greatly appreciate this effort by the Judicial Council to provide additional clarification and support in filing 236.14 petitions that provide critical new protections for survivors of modern slavery in California.	
7.	Department of Human Services, Kern County by Becky Hagar, MSW, Program Specialist	A	<p>The proposed changes are consistent with CCR and changes necessary to offer youth opportunities to re-enter foster care regardless of past convictions.</p> <p>The suggested forms and changes also are consistent with these changes. The AB12 Re-entry forms and all associated forms would need to be changed as noted in this proposed change.</p> <p>Please see answers to specific questions below:</p> <p>Request for Specific Comments In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> • Does the proposal appropriately address 	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<p>the stated purpose? Yes, despite the complexity, it does address the primary core purpose as state above.</p> <ul style="list-style-type: none"> • What term should be used in the rules and forms to refer to a young person whose petition is subject to vacatur? Is “young person” appropriate? “Youth” may be more appropriate. • Are the petition for vacatur and the accompanying order written plainly enough that they will be accessible to the juvenile and young adult population? Although it was stated that simplified language was used, the forms still contain a lot of legal language that is not simple or clear to a layman. Further, it is important to note that despite these efforts our youth would still find difficulty in navigating through these items without assistance (given that a lot of the youth struggle with mental health, substance abuse and/or other delays). • Is the table on form JV-748 sufficient to obtain information about convictions and arrests from other jurisdictions in the state? The form is comprehensive but complete. 	<p>The committee considered using the term youth but concluded that “young person” is more appropriate because it includes those applicants who are over the age of 18 years of age.</p> <p>The committee acknowledges that the form contains legal terminology that may be difficult for a lay person to understand; however, the committee believes this language is necessary to effectuate the legal intent. The committee attempted to produce legal form that is both accurate and more easily accessible to the public than most legal forms.</p> <p>No response required.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<p>Enough information is requested.</p> <ul style="list-style-type: none"> • Should the forms include additional provisions aimed at anonymizing the name of the young person who seeks to have his or her underlying petition vacated? I don't see the benefit of this. As long as the parties involved maintain the youth's confidentiality and only those party to the matter are privy to the information, anonymizing the name would not be necessary. • It is recommended that rule 5.811 and forms JV-748 and JV-749 sunset in five years. Is five years a sufficient time period to provide young people time to request vacatur or should the sunset period be longer? Sunset period seems appropriate. 	<p>No response required.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>
8.	Orange County Bar Association by Nikki P. Miliband, President	AM	<p>The proposal appropriately addresses the stated purpose to allow youths under delinquency jurisdiction to remain eligible for extended foster care even if the underlying petition is vacated.</p> <p>The term "youth" should be used in lieu of</p>	<p>No response required.</p> <p>The committee considered using the term</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<p>“young person.”</p> <p>The petition for vacatur forms appear to be accessible and drafted in sufficiently plain terms; the table on the JV-748 form provides enough information.</p> <p>Anonymizing the name of the youth is not necessary due to the confidential nature of the proceedings. Including the name of the youth will provide less confusion in maintaining court files.</p> <p>The 5-year sunset rule should be slightly extended due to the young age at which some offenders enter the delinquency system.</p>	<p>“youth” but concluded that “young person” is more appropriate because it includes those applicants who are over the age of 18 years of age.</p> <p>No response required.</p> <p>No response required.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>
9.	Superior Court of Orange County by Cynthia Beltran, Administrative Analyst	A	<p>What term should be used in the rules and forms to refer to a young person whose petition is subject to vacatur? Is “young person” appropriate?</p> <p>Most of our forms and internal documents,</p>	<p>The committee considered using the term “youth” but concluded that “young person” is more appropriate because it includes those applicants who are over the age of 18 years of age.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			reference “youth” or “minor.”	
			Are the petition for the vacatur and the accompanying order written plainly enough that they will be accessible to the juvenile and young adult population? Yes	No response required.
			Is the table on form JV-748 sufficient to obtain information about convictions and arrests from other jurisdictions in the state? Yes	No response required.
			Should the forms include additional provisions aimed at anonymizing the name of the young person who seeks to have his or her underlying petition vacated? Yes	The committee believes it is not necessary to include additional provisions to anonymize the applicant’s name because these requests will be filed in juvenile court, where the cases are already protected by confidentiality.
			It is recommended that rule 5.811 and forms JV-748 and JV-749 sunset in five years. Is five years a sufficient time period to provide young people time to request vacatur or should the sunset period be longer? Yes	As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.
10	Superior Court of Riverside by Susan D. Ryan, Chief Deputy of	A	Position on the Proposal: Agree with the proposal.	

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
	Legal Services		<p>Response to Request for Specific Comments:</p> <ul style="list-style-type: none"> Does the proposal appropriately address the stated purpose? Yes. Is the term “young person” appropriate? Yes. Are the petition for vacatur and the accompanying order written plainly enough that they will be accessible to the juvenile and young adult population? <p>Assuming that this question refers to form JV-748 Request to Vacate Arrest or Conviction, and form JV-749 Order After Request to Vacate Arrest or Conviction, yes, the forms seem to be written as plainly as possible and the directions are complete and clear.</p> <ul style="list-style-type: none"> Is the table on form JV-748 sufficient to obtain information about convictions and arrests from other jurisdictions in the state? <p>Yes, however it would also be helpful if the</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The committee will revise form JV-748 to include a request for the petition file date.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			<p>petition file date was provided. What is meant by Arrest or Adjudication? Is the form asking for the date of arrest or adjudication? If so the form should clearly state “date of arrest or adjudication”.</p> <ul style="list-style-type: none"> Should the forms include additional provisions aimed at anonymizing the name of the young person who seeks to have his or her underlying petition vacated? No. It is recommended that rule 5.811 and forms JV-748 and JV-749 sunset in five years. Is five years a sufficient time period to provide young people time to request vacatur or should the sunset period be longer? <p>Probably, however there may be an occasional request after five years.</p> <ul style="list-style-type: none"> Would the proposal provide cost savings? No. What would the implementation requirements be for courts? 	<p>No response required.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p> <p>The committee believes that these forms made provide cost savings by creating a uniform procedure versus the ad hoc approach, which is likely to waste time as court staff attempts to reconcile individual processes.</p> <p>The committee agrees that these forms will necessitate minor implementation</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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Commentator	Position	Comment	Committee Response
		<p>Clerks' office and courtroom staff would need to be trained on how to process these types of requests and orders (approximately one (1) hour). Procedures would need to be created for filing the requests, setting the hearings and completing minute entries. Codes would need to be created in the case management system for processing the documents and hearings. Procedures would also need to be updated for the sealing of records as well as the processing Welfare & Institutions Code § 827 requests. Minimal changes or training would be required for the changes to the other existing forms. Perhaps some minor adjustments to minute codes.</p> <ul style="list-style-type: none">• Would six months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.• How well would this proposal work in courts of different sizes? The same updates to procedures, codes, and training would likely need to occur in any size court. The proposals should work the same for courts of any size.	<p>requirements.</p> <p>No response required.</p> <p>No response required.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
11	Superior Court of San Bernardino County by Executive Office	AM	<p>Comments: Form JV-466 line 4 – refers to “My arrest and conviction” – would “disposition or finding of true” be appropriate?</p> <p>The form should be clear that it is not for PC647-Drunk in Public.</p> <p>The form should also have an area for the “County” where the disposition took place, as the minors are often transferred from one county to another depending on which county they reside.</p> <p>The form should include a line if the minor would like the order mailed to them after the court hearing, and should indicate “mailing address” in case the minor resides in an area where mail is not delivered, i.e. PO Box.</p> <p>The sunset of five years is appropriate; six months would provide ample time for procedural, training and revising processes.</p>	<p>The committee agrees that the word “conviction” should be replaced with “adjudication.”</p> <p>This form does not directly refer to PC 647f, which recently removed from the Penal Code.</p> <p>The committee will revise form the table on JV-748 to include a column where the county of disposition can be entered.</p> <p>The form JV-748 will be revised to include a space where the applicant can include an alternate address.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
12	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Yes, except for the incorrect terminology used to implement AB 604. It is the adjudication (not the petition) that the court may vacate. If the court vacates the adjudication, the petition (not the adjudication) is dismissed (not vacated). (See PC § 236.14 and comments below.) • What term should be used in the rules and forms to refer to a young person whose petition is subject to vacatur? Is “young person” appropriate? Suggest “youth” for brevity and because it can apply to both minors and nonminors. “Ward” is not appropriate if the applicant was arrested but no petition was filed. • Are the petition for vacatur and the accompanying order written plainly enough that they will be accessible to the juvenile and young adult population? Yes. • Is the table on form JV-748 sufficient to obtain information about convictions and arrests from other jurisdictions in the state? See comments below for JV-748. 	<p>The forms will be revised to accurately reflect the terms used in juvenile court.</p> <p>The committee considered using the term “youth” but concluded that “young person” is more appropriate because it includes those applicants who are over the age of 18 years of age.</p> <p>No response required.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> • Should the forms include additional provisions aimed at anonymizing the name of the young person who seeks to have his or her underlying petition vacated? Could this problem be solved by marking the forms “CONFIDENTIAL” (see, e.g., CLETS-001) and/or a warning box (e.g., “The information written on this form is confidential pursuant to Welfare and Institutions Code section 827”)? Perhaps amendments should be sought to WIC § 827 and/or Cal. Rules of Court, rule 5.552 to include vacatur petitions and orders in juvenile cases. • Is five years a sufficient time period to provide young people time to request vacatur or should the sunset period be longer? The sunset period should be longer. There are many factors that can contribute to delay in seeking vacatur: e.g., unawareness of the availability of the remedy, emotional trauma, fear of retaliation, physical recovery from abuse and/or addiction, et al. Input should be sought from professionals who work closely with survivors, e.g., Coalition to Abolish Slavery and Human Trafficking (www.castla.org), Free to Thrive 	<p>After consideration, the committee believes it is not necessary to include additional provisions to anonymize the applicant’s name because these requests will be filed in juvenile court, where the cases are already protected by confidentiality.</p> <p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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Commentator	Position	Comment	Committee Response
		(www.FreetoThriveSD.org).)	
		<ul style="list-style-type: none"> • Would the proposal provide cost savings? Unknown. 	No response required.
		<ul style="list-style-type: none"> • What would the implementation requirements be for courts? Print and distribute revised forms to court staff, attorneys, trafficking survivor service providers, et al. Train court staff how to process new forms. Create or revise any written internal procedures. 	The committee agrees that these forms will necessitate minor implementation requirements.
		<ul style="list-style-type: none"> • Would six months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Probably. 	No response required.
		<ul style="list-style-type: none"> • How well would this proposal work in courts of different sizes? Unknown. 	No response required.
		<u>Form JV-320</u>	
		Page 3, item 15.d.: Query – Because item 15.c. reads “is terminated,” shouldn’t item	Item 15.d. on form JV-320 should include “not.” The form will be revised accordingly.

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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Commentator	Position	Comment	Committee Response
		<p>15.d. read “is not terminated”?</p> <p style="text-align: center;"><u>Form JV-367</u></p> <p>Page 1, right footer: Query – Should the citation include all of the statutes cited in Cal. Rules of Court, rule 5.555, i.e., add §§ 224.1(b), 303, 366.31, 451, 452, and 16501.1(g)(16)?</p> <p style="text-align: center;">Welfare & Institutions Code, §§ <u>224.1(b)</u>, <u>303</u>, <u>366.31</u>, 391, <u>451</u>, <u>452</u>, 607.2, 607.3, <u>16501.1(g)</u>; Cal. Rules of Court, rule 5.555</p> <p>Page 3, Item 31.b.: Query – Should “legal guardianship” be added as a permanent plan? (See, e.g., WIC § 366.3(a) [court shall retain jurisdiction over child or NMD until legal guardianship is established].)</p> <p>b. The nonminor's permanent plan is (1) Return home</p>	<p>Unlike the rules, space on the forms is limited; consequently, only the most statutes are included on forms.</p> <p>Legal guardianship was not included in the list because it is not a legally permissible plan for nonminor dependents. According to Probate Code section 1600, guardianships terminate by operation of law when the young person turns 18 years old. As such, a guardianship through dependency court cannot be initiated after a person reaches 18 years of age. It must be assumed that inclusion of guardianship in Welf. and Inst.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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

Commentator	Position	Comment	Committee Response
		<p>(2) Adoption (3) Tribal customary adoption (4) <u>Legal guardianship</u> (5) Placement with a fit and willing relative (6) Another planned permanent living arrangement (7) Other (<i>specify</i>)</p> <p>Page 3, Item 31.c.: Query – Is this item necessary? What statute or rule requires the court to find that APPLA is still the best permanent plan and to state the reasons for that finding <i>at the hearing to consider termination of jurisdiction</i>? Granted, it is required at the NMD status review (WIC § 366.31(e)(10)(B)), but there does not appear to be any such mandate in WIC § 391, 607.2, or 607.3. CRC rule 5.555(d)(2)(B) merely requires the court to order a permanent plan consistent with the nonminor’s TILP or TILCP. Also, assuming this finding is necessary and remains on form JV-367, is (1) by itself (“The nonminor is 18 or older”) an adequate reason for finding that APPLA is still the best permanent plan?</p>	<p>Code section 366.3(a) must have been an oversight on the legislature’s part.</p> <p>The purpose of revising this form is to include the findings and orders that are required to be made when court jurisdiction is continued, so that courts only need to use one form. Currently, if the court denies a request to terminate jurisdiction over a nonminor, it must use this form and an additional form to document the appropriate findings. While it is true that Welf. and Inst. Code section 391 does not require this language, Welf. and Inst. Code section 366.31, which sets forth the findings to be made at nonminor dependent review hearings, does require this language. As for the second question, the committee believes that it is an adequate reason. It recognizes that the purpose of extended foster care is to treat nonminor dependents as adults who are working toward independence and learning to live on their own.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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Commentator	Position	Comment	Committee Response
		<p>Likewise, is there any statute or rule requiring the court to state, <i>at the hearing to consider termination of jurisdiction</i>, compelling reasons why other permanent plan options are not in the nonminor’s best interest? Yes, this finding is required at the NMD status review (WIC § 366.31(e)(10)(C)), but there is no such requirement in WIC § 391, 607.2, or 607.3 or CRC rule 5.555(d).</p> <p>Page 3, Item 27.a.: Query – Should “legal guardianship” be added as a permanent plan?</p> <p>a. The youth’s permanent plan is:</p> <ul style="list-style-type: none">(1) return home(2) adoption(3) tribal customary adoption(4) <u>legal guardianship</u>(5) placement with a fit and willing relative(6) another planned permanent living arrangement(7) other (<i>specify</i>)	<p>Please see the answer above.</p> <p>Legal guardianship was not included in the list because it is not a legally permissible plan for nonminor dependents. According to Probate Code section 1600, guardianships terminate by operation of law when the young person turns 18 years old. As such, a guardianship can not be initiated through dependency court after a person reaches 18 years of age. It must be assumed that inclusion of guardianship in Welf. and Inst. Code section 366.3(a) must have been an oversight on the legislature’s part.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
			Page 3, Item 27.b.(1): Query -- Is (1) by itself (“The nonminor is 18 or older”) an adequate reason for finding that APPLA is still the best permanent plan?	<p>The committee believes that it is an adequate reason. It recognizes that the purpose of extended foster care is to treat nonminor dependents as adults who are working toward independence and learning to live on their own.</p> <p>This commenter submitted grammatical and typographical edits to the rules and forms. Those edits in keeping with the Judicial Council’s style guide were made.</p>
13	Superior Court of Ventura County by Keri Griffith, Juvenile Court Manager	AM	<p>Note that on page 13, Rule 5.811(g) has a sunset date of January 1, 2020. I believe it should be January 1, 2024.</p> <p>On Page 2 of the Request to Vacate Arrest or Conviction (JV-748), under 5(b), Waiver of Appearance, modify to read: I can appear at the hearing by telephone or videoconference, if the court allows this type of appearance.</p>	<p>As stated above, the committee is persuaded by the argument that crimes related to sex trafficking may continue to be prosecuted and that it may take time for victims of sex trafficking to address the legal issues. Consequently, the committee agrees to remove the sunset provision from the forms.</p> <p>The committee will revise the form as suggested.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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	Commentator	Position	Comment	Committee Response
14	Trial Court Presiding Judges Advisory Committee (TCPJAC)	AM	<p>Recommended JRS Position: Agree with proposed changes if modified.</p> <p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"> • This proposal would result in additional training, which requires the commitment of staff time and court resources. <p>The only terms that make legal sense and should be used are “minor/non-minor.” This describes a division between those under and over 18, which is important for transitional foster care.</p> <ul style="list-style-type: none"> • The forms, case, hearing, etc. are all confidential, and all the players would already have “the young person’s” name. It is not necessary to anonymize the name on the forms. • Form JV-464-Info should include information on how a minor may acquire a copy of his/her criminal record as found in form JV-595-Info. 	<p>The committee agrees that these forms will necessitate minor implementation requirements.</p> <p>The committee concluded that “young person” is more appropriate because it does not have juvenile justice overtones.</p> <p>No response required.</p> <p>Committee will modify form JV-464-Info to include this language: “If you think there are agencies that might have records on you that were never sent to probation, you need to name those agencies, or the court will not know to seal those records.</p>

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

SP18-24

Juvenile Law: Nonminor Dependents: Extension of Services (amend Cal. Rules of Court, rule 5.812, 5.903, and 5.906; adopt rule 5.811; approve JV-748 and JV-749; revise JV-320, JV-367, JV-462, JV-464, JV-466, JV-470, JV-472, JV-680, JV-682, and JV-683)

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			<p>If you are not sure what contacts you might have had with law enforcement, you can get your criminal history record from the Department of Justice. See http://oag.ca.gov/fingerprints/security for more information.”</p>
		<ul style="list-style-type: none">• Rule 5.811, (page 9) after paragraph (1) on line 11, the phrase “The minor:” should be placed on line 13, with paragraphs (2) through (5) coming after that phrase. It makes more grammatical sense.	<p>The committee agrees that this subsection should be modified and will move the first sentence to the end of the list.</p>
		<ul style="list-style-type: none">• In Section(d) Reports, at lines 20 and 24, paragraph (3), where it says “a young person” it should say “within the jurisdiction.” In Section (g) Sunset Provision, the repeal effective date on line 14 should be 1-1-24, not 1-1-20, to match the five-year window.	<p>The court will revise the rule to add the phrase “within the jurisdiction,” as suggested. After reviewing many comments expressing concern with the sunset provision, the committee has determined it is best to remove that provision altogether.</p>
		<ul style="list-style-type: none">• As to JV-464-INFO, “Do I Qualify to Return to Juvenile Court...” should be the first paragraph, not the second.	<p>Thank you for this suggestion; however, this change was not part of this proposal and, because this form has been in use for quite some time, the suggestion is one that requires input from interested parties. We will make note of this suggestion and consider changing the form during the next legislative cycle.</p>

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

SP18-24

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	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none">• On the 2nd page, there should be an “or” in the space between the first two paragraphs in the section “Where do I File my Completed Form?”• On page 3, there should be an “or” between the first and second bullet points and the second and third bullet points, since these are all options the judge has.	<p>The committee will revise the form accordingly.</p> <p>The committee will revise the form accordingly.</p>

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