



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 14, 2019

Title

Juvenile Law: Transfer of Jurisdiction to Criminal Court

Rules, Forms, Standards, or Statutes Affected

Revoke action taken on September 24, 2019, to amend Cal. Rules of Court, rules 5.766, 5.768, and 5.770, and revise forms JV-060-INFO and JV-710

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

November 25, 2019

Date of Report

October 24, 2019

Contact

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revoke its action on September 24, 2019, to revise rules and forms to implement recent changes in the law on the transfer of jurisdiction to a criminal court for children 14 and 15 years of age because there is a split of authority within the California Courts of Appeal as to whether these changes were enacted in a constitutional manner. Thus, there is no clear rule for trial courts to follow at this time.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective November 25, 2019, revoke the action taken on September 24, 2019, to implement proposed changes to rules and forms effective January 1, 2020, in the attached report entitled *Juvenile Law: Transfer of Jurisdiction to Criminal Court*. This action would restore the

following rules and forms to their prior states pending the legal resolution of the status of the changes made to Welfare and Institutions Code section 707 by Senate Bill 1391:

1. California Rules of Court, rules 5.766, 5.768, and 5.770; and
2. Judicial Council forms JV-060-INFO and JV-710.

Relevant Previous Council Action

The Judicial Council adopted rules 5.766, 5.768, 5.770, and 5.772 effective January 1, 1991, as rules 1480, 1481, 1482, and 1483 respectively; they were renumbered effective January 1, 2007. These rules have been amended numerous times, most recently effective May 22, 2017, to implement the changes enacted by Proposition 57, the Public Safety and Rehabilitation Act of 2016.

Juvenile Fitness Hearing Order (Welfare and Institutions Code, § 707) (form JV-710) was adopted by the council effective January 1, 2006, and made optional effective January 1, 2012. It was significantly revised effective May 22, 2017, to implement the changes enacted by Prop. 57. *Juvenile Justice Court: Information for Parents* (form JV-060-INFO) was significantly revised effective January 1, 2019, to make it legally accurate (using plain language), and to reformat it to make printing easier.

On September 24, 2019, the Judicial Council approved a proposal to implement changes to rules and forms to make them consistent to the changes to Welfare and Institutions Code section 707 made by SB 1391.

Analysis/Rationale

Senate Bill 1391 (Lara; Stats. 2018, ch. 1012) amended Welfare and Institutions Code section 707 to provide that a child must be at least 16 years of age to be considered for transfer of jurisdiction to criminal court unless (1) the individual for whom transfer is sought was 14 or 15 at the time of the offense, (2) the offense is listed in section 707(b), and (3) the individual was not apprehended until after the end of juvenile court jurisdiction. At the time the council took its action, there had been three appellate court opinions in two different districts upholding the constitutionality of the statutory changes being implemented; review had been denied by the Supreme Court in those cases. Since that time, the Second District has ruled that the provision was not constitutionally enacted. Thus, until the Supreme Court acts, the validity of the change is in question and it is premature to implement its provisions in rules and forms.

The committee was aware that there were constitutional questions about SB 1391 as it developed the proposal recently approved by the council, but moved it forward to ensure that a proposal would be ready if the law were to be upheld. The question faced by the courts in each of the challenges has been whether the changes made by SB 1391 to the provisions of Prop. 57 were consistent with the intent of the ballot measure and thus lawfully enacted by the Legislature. At the time of the council meeting, courts in the First and Third Districts of the Courts of Appeal had issued opinions finding that SB 1391 was consistent with the intent of the voters in enacting

Prop. 57—and thus a constitutional exercise of the Legislature’s authority—and while the petitioners in each case sought review of those decisions in the Supreme Court, the court denied such review in both cases.¹ Subsequently, the Fifth, Sixth, and most recently the Fourth District Courts of Appeal have also ruled in favor of the constitutionality of the statute, in split 2–1 opinions.²

Bucking this trend, on September 30, an opinion was filed in the Court of Appeal, Second Appellate District, holding that the provisions of SB 1391 were not consistent with the voters intent in enacting Prop. 57 and thus holding that the amendments to Welfare and Institutions Code section 707 were an unconstitutional exercise of legislative authority.³ As a result of that decision, which preserves the right of the prosecution to seek a transfer to criminal court for an offense committed by a 14 or 15 year old, the legal accuracy of the amended and revised rules and forms adopted by the council on September 24 is now in doubt. Until the Supreme Court takes action to make a final determination on the constitutionality of the changes made by SB 1391, the committee deemed it prudent to leave the existing rules and forms unchanged.

Policy implications

Implementing amended rules of court and revised forms while the constitutionality of SB 1391 is actively being litigated may create the impression that the validity of the statute is not in question. The rules and forms currently in effect can be used by courts regardless of which opinion they follow, while the proposal to be revoked is only consistent with the law as amended by SB 1391.

Comments

This recommendation to revoke the prior council action was not circulated for comment as it simply restores the status quo until a final determination is made on the constitutionality of the underlying statutory change.

Alternatives considered

The committee considered making no recommendation and thus allowing the amended and revised rules and forms to go into effect on January 1, 2020, but was concerned that doing so would only add to the confusion regarding the changes in the law and would provide no mechanism for those trial courts that opt to follow the reasoning in *O.G.*

¹ *People v. Superior Court (Alexander C.)* (2019) 34 Cal.App.5th 994, review denied June 26, 2019, S255985; and *People v. Superior Court of Sacramento County (K.L. and R.Z.)* (2019) 36 Cal.App.5th 529, review denied July 17, 2019, S256637.

² *People v. Superior Court (T.D.)* (2019) 38 Cal.App.5th 360; *People v. Superior Court (I.R.)* (2019) 38 Cal.App.5th 385; *People v. Superior Court (S.L.)* (Sept. 20, 2019, H046598) __ Cal.App.5th __ [2019 Cal.App. LEXIS 904]; and *B.M. v. Superior Court* (Oct. 1, 2019, E072265).

³ *O.G. v. Superior Court* (Oct. 1, 2019, B295555).

Fiscal and Operational Impacts

If the council were to implement the provisions of SB 1391 only to have it ruled unconstitutional by the Supreme Court, courts would be in the position of implementing new forms twice, whereas the decision to delay until the status of the law is final will ensure that any necessary changes are made one time at most.

Attachments and Links

1. Attachment A: *Juvenile Law: Transfer of Jurisdiction to Criminal Court*, report to the Judicial Council for its Sept. 24, 2019 meeting, pp. 5-34.
2. Link A: Sen. Bill 1391 (Stats. 2018, ch. 1012),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1391



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Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective November 25, 2019, revoke the action taken on September 24, 2019, to implement proposed changes to rules and forms effective January 1, 2020, in the attached report entitled *Juvenile Law: Transfer of Jurisdiction to Criminal Court*. This action would restore the

1. Amend California Rules of Court, rules 5.766, 5.768, and 5.770 to implement statutory and recent case law changes pertaining to the transfer-of-jurisdiction process;
2. Revise *Juvenile Justice Court: Information for Parents* (form JV-060-INFO) to reflect modified age limits on transferring jurisdiction to criminal court over juvenile offenders; and
3. Revise *Order to Transfer Juvenile to Criminal Court Jurisdiction* (form JV-710) to reflect recent changes in the transfer statute and case law.

The text of the amended rules and the revised forms are attached at pages 6–17.

Relevant Previous Council Action

The Judicial Council adopted California Rules of Court,¹ rules 5.766, 5.768, and 5.770 effective January 1, 1991, as rules 1480, 1481, 1482, and 1483 respectively, and they were renumbered effective January 1, 2007. These rules have been amended numerous times, most recently effective May 22, 2017, to implement the changes enacted by Proposition 57.

Juvenile Fitness Hearing Order (Welfare and Institutions Code, § 707) (form JV-710) was adopted by the council effective January 1, 2006, and made optional effective January 1, 2012. It was significantly revised effective May 22, 2017, to implement the changes enacted by Prop. 57. *Juvenile Justice Court: Information for Parents* (form JV-060-INFO) was significantly revised effective January 1, 2019, to bring it up to date (using plain language), and to reformat it to make printing easier.

Analysis/Rationale

On November 8, 2016, the people of the State of California enacted Prop. 57, the Public Safety and Rehabilitation Act of 2016, effective November 9, 2016. Proposition 57 amended existing law to require that the juvenile court consider a motion by the district attorney or other appropriate prosecuting officer to transfer the minor to the jurisdiction of the criminal court before a juvenile can be prosecuted in a criminal court. To that end, the proposition repealed Welfare and Institutions Code section 602(b),² which had provided that certain serious and violent felonies were to be prosecuted in criminal court, as well as section 707(d), which had authorized the district attorney to directly file an accusatory pleading involving certain minors in criminal court. In addition, the proposition eliminated a set of presumptions that applied in determining whether a case should be transferred and instead provided the court with broad discretion to determine whether the child should be transferred to a court of criminal jurisdiction, taking into account numerous factors and criteria.

Senate Bill 1391 (see Link A) further amended these provisions to limit the transfer of cases involving offenders who were 14 or 15 years old at the time of the alleged offense to those in

¹ All further references to “rule” or “rules” are to the California Rules of Court.

² Hereinafter, all statutory references are to the Welfare and Institutions Code unless otherwise specified.

which the alleged offender is not apprehended until after reaching adulthood, and the offense is one listed in section 707(b). Since January 1, 2019, district attorneys in at least 10 counties have lodged challenges to the constitutionality of the law. Trial courts have ruled both for and against upholding the constitutionality of the statute and, thus, its status is in question. However, the Court of Appeal has ruled, in two cases in different appellate districts, that SB 1391 is not an unconstitutional modification of the voters' intent in enacting Prop. 57. The Supreme Court has denied review in both cases.³

To implement the new jurisdictional changes, the transfer rules and form must be changed. In addition, the information form for parents whose children have been arrested must be updated to contain the accurate information about transfer of jurisdiction to criminal court and the lower limit on jurisdiction for children under 12 years of age in most cases.

Transfer rules 5.766, 5.768, and 5.770

The current rules of court governing the process for transfer of jurisdiction from juvenile to criminal court provide that transfer can occur when the subject of the petition is age 14 or 15 and is alleged to have committed an offense listed in Welfare and Institutions Code section 707(b), or is 16 years of age or older and is alleged to have committed a felony. These rules must be amended to state that a transfer petition may be considered only for those who were 14 or 15 years of age at the time of the offense when the individual who is the subject of the petition was apprehended after the end of juvenile court jurisdiction. In addition, the changes to section 707 require that code references be updated to reflect the new structure of the statute. The proposal would also update rule 5.770 to include the requirement that the court make specific findings for each of the transfer criteria in section 707(a)(3) as provided in *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009. Finally, the committee recommends revising rule 5.776 to correct a typographical error in the most recent version approved by the council.

Transfer order form JV-710

Order to Transfer Juvenile to Criminal Court Jurisdiction (form JV-710), for optional use, would be revised to update item 3 to include the limitation on transferring individuals who were age 14 or 15 at the time of the offense to those situations in which apprehension of the subject of the petition occurred after the end of juvenile court jurisdiction; and to update item 4 to correct the statutory reference to 707(a)(2) and make it 707(a)(3), consistent with the changes enacted by SB 1391.

Information form for parents (JV-060-INFO)

To provide accurate information to parents about when a juvenile case can be transferred to criminal court, *Juvenile Justice Court: Information for Parents* (form JV-060-INFO) would be revised to reflect the limitations on transfer of people 14 and 15 years of age.

³ *People v. Superior Court (Alexander C.)* (2019) 34 Cal.App.5th 994, review denied June 26, 2019, S255985; and *People v. Superior Court of Sacramento County (K.L. and R.Z.)*, (2019) 36 Cal.App.5th 529, review denied July 17, 2019, S256637.

Policy implications

The change to the law made by SB 1391 will result in fewer cases being eligible to transfer to criminal court jurisdiction. As a result, juvenile courts will have to determine appropriate dispositions for offenders who have been found to have committed serious offenses, including homicide, between ages 14 and 16. This proposal seeks to provide accurate rules and forms for the courts to use to carry out their transfer obligations, given the new law, and to ensure that the information form for parents reflects the current state of the law.

Comments

This proposal was circulated for public comment from April 11 to June 10, 2019, as part of the regular spring comment cycle. Six organizations submitted comments on this proposal. Three commenters agreed with the proposal. Three organizations agreed if the proposal was modified. A chart with the full text of the comments received and the committee's responses is attached at pages 18–30.

Implementing C.S. v. Superior Court (2018) 29 Cal.App.5th 1009

The committee asked for specific comment on whether the proposal should include rule or form changes to assist the courts in implementing the holding in *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009, which requires the court to articulate its findings on each of the transfer criteria in the statute. The committee asked whether rule 5.770 or form JV-710 should be changed to reflect this holding. The commenters expressed an array of opinions on this question, from making no change to changing both the rule and the form. The committee concluded that it was critical for courts to be prompted to make the detailed and specific findings required for each statutory criterion, but also agreed with a number of commenters that form JV-170 was not the optimal place to record such findings. Thus, the committee recommends adding language requiring such findings to rule 5.770, and revising the text of item 4 of form JV-710 to clearly state that the court has considered and made findings on the record for each of the criteria.

Referring to the subject of a transfer order—minor v. child

The committee in recent rules and forms cycles has been confronted with what is the best term to use to refer to the young people subject to the jurisdiction of the juvenile justice courts. The last time the transfer rules and forms were amended or revised to implement Prop. 57, the committee opted to stick with its general practice of using the term “child” as opposed to the term “minor”—which is used in the statute. In this comment cycle, two commenters objected to the use of the term child with one suggesting “youth” as a substitute and one suggesting “minor” or “youth.” While there was significant division within the committee on this issue, the majority favored maintaining the status quo and retaining the use of child because it is defined in both statute and rule of court, and because it signals the developmental differences that impact those who are subject to transfer motions and that the Legislature has directed the courts to take into account.

Adding an item to form JV-710 for withdrawal of a transfer motion

One commenter suggested that form JV-710 be revised to allow for the withdrawal of a transfer order to accommodate cases impacted by SB 1391's restrictions on the age for transfers. The

committee ultimately determined that this was not a necessary addition to the form because it did not fit within the transfer order process and because such motions can easily be made currently without this form.

In addition to these substantive comments, the committee received numerous clarifying and technical suggestions, most of which it adopted.

Alternatives considered

As described in the discussion of the comments, the committee discussed a number of alternative approaches to this proposal, including modifying form JV-710 to allow for courts to record their findings on the section 707(a)(3) criteria, modifying the form to place a check box for a transfer motion to be withdrawn, and changing the terminology on the form to use the term minor or youth in place of child. For the reasons set forth above, the committee opted not to adopt those alternatives.

In addition, given the legal challenges to the underlying legislation that the proposal seeks to implement, the committee considered deferring action until all appellate review is final, but determined that it would be preferable to move forward at the same time as the litigation in order to assist courts with implementation in a timely manner. Given that two courts have published opinions upholding the statute and the Supreme court has denied petitions for review in both of those cases, the committee has concluded that the statute should be implemented now.

Fiscal and Operational Impacts

The restrictions on the use of transfer to criminal court for juvenile offenders ages 14 and 15 will result in the filing of fewer transfer petitions for these youth and, thus, fewer hearings on those petitions. These impacts are the result of legislative changes. The revisions to form JV-060-INFO may impose additional printing costs for any courts that need to replace existing copies of this form with the revised information form.

Attachments and Links

1. Cal. Rules of Court, rules 5.766, 5.768, and 5.770, at pages 6–7
2. Forms JV-060-INFO and JV-710, at pages 8–17
3. Chart of comments, at pages 18–30
4. Link A: Sen. Bill 1391 (Stats. 2018, ch. 1012),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1391

Rule 5.766. General provisions

(a) Hearing on transfer of jurisdiction to criminal court (§ 707)

A child who is the subject of a petition under section 602 and who was 14 years or older at the time of the alleged felony offense may be considered for prosecution under the general law in a court of criminal jurisdiction. The district attorney or other appropriate prosecuting officer may make a motion to transfer the child from juvenile court to a court of criminal jurisdiction, in one of the following circumstances:

(1) The ~~child~~ individual was 14 or 15 years ~~or older of age~~ at the time of the alleged offense listed in section 707(b) and was not apprehended before the end of juvenile court jurisdiction.

(2) The child was 16 years or older at the time of the alleged felony offense.

(b)–(c) * * *

(d) Time of transfer hearing—rules 5.774, 5.776

The transfer of jurisdiction hearing must be held and the court must rule on ~~the~~ the request to transfer jurisdiction before the jurisdiction hearing begins. Absent a continuance under rule 5.776 or the child's waiver of the statutory time period to commence the jurisdiction hearing, the jurisdiction hearing must begin within the time limits under rule 5.774.

Rule 5.768. Report of probation officer

(a) Contents of report (§ 707)

The probation officer must prepare and submit to the court a report on the behavioral patterns and social history of the child being considered. The report must include information relevant to the determination of whether the child should be retained under the jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal court, including information regarding all of the criteria in section 707(a)~~(2)~~(3). The report must also include any written or oral statement offered by the victim pursuant to section 656.2.

(b)–(c) * * *

Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707

(a) * * *

(b) Criteria to consider (§ 707)

Following receipt of the probation officer's report and any other relevant evidence, the court may order that the child be transferred to the jurisdiction of the criminal court if the court finds:

- (1) The child was 16 years or older at the time of any alleged felony offense, or the ~~child~~ individual was 14 or 15 years of age at the time of an alleged felony offense listed in section 707(b) and was not apprehended before the end of juvenile court jurisdiction; and
- (2) The child should be transferred to the jurisdiction of the criminal court based on an evaluation of all of the criteria in section 707(a)(~~2~~)(3) as provided in that section. The court must document on the record the basis for its decision, detailing how it weighed the evidence and identifying the specific facts that persuaded the court to reach its decision, notwithstanding that the decision must be based on the totality of the circumstances and the child need not be found amenable on each of the five criteria in order to remain in juvenile court.

(c)–(h) * * *

Juvenile justice court (sometimes called *delinquency* court) is a court that decides if a child broke the law. The juvenile justice court helps to protect, guide, and rehabilitate children. And it helps keep the community safe.

This information sheet answers common questions that many parents have. It has three sections:

1. What Happens When Your Child Is Arrested
2. **Your child's** Court Hearings and Orders
3. How to Keep Your Child's Juvenile Court Record Private

This form describes the juvenile justice court process. Some children who break the law and become involved with law enforcement or probation never need to go to court.

① What Happens When Your Child Is Arrested

This section is about:

- What to expect when your child is arrested,
- What your child's legal rights are,
- What the *notice to appear* and the *petition* are,
- What it means to transfer your child to adult court, and
- What a *probation officer* does.

My child was arrested. What happens next?

Your child might be brought home or allowed to go home with you.

You will be given or mailed a notice to appear that tells you the date, time, and place you and your child need to go to the probation department or juvenile court. Talk to a qualified juvenile defense lawyer about your child's case. Many juvenile defenders offer free consultations.

Warning! You and your child *must* go to the meeting listed on the notice to appear even if no one contacts you again. Sometimes the meeting will be at probation. Sometimes the notice will order you to go to the juvenile court.

Your child might NOT be sent home immediately after the arrest.

If that happens, the officer who arrested your child may:

- Let your child go later.
- Take your child to juvenile hall and keep them there. This is called *in-custody detention*. If this happens, the arresting officer *must* try to contact you immediately to tell you where your child is and that your child is in custody.



What are my child's legal rights after arrest?



Your child has the right to make at least **two phone calls** within **1 hour** of being arrested.

- One call must be a *completed* call to a parent, guardian, responsible relative, or employer.
- The other call must be a *completed* call to a lawyer.
- If your child is currently in court-ordered foster care, your child may also be allowed to call a foster parent or social worker.

Will they tell my child about the right to remain silent?

Yes. Before any officer asks your child about what happened, the officer must first tell your child about your child's *Miranda* rights.

They will say:



"You have the right to remain silent. Anything you say will be used against you in court. You have a right to have a lawyer with you during questioning. If you or your parents cannot afford a lawyer, one will be appointed for you."

NOTE: If your child is 15 years old or younger and in custody, your child *must* talk to a lawyer—in person, by phone, or by videoconference (like Skype or FaceTime)—before answering any questions or giving up any rights. Your child cannot decide to answer questions or give up rights without first talking to a lawyer.

Does my child need a lawyer?

If a petition is filed, your child has a right to an *effective* and *prepared* court-appointed lawyer, who must have specific education and training in juvenile justice cases. Many parents hire a lawyer for their child as soon as the child is arrested.



Your child's lawyer represents only your child, not you, even if you are paying for that lawyer.

Do I need a lawyer for myself?

The court can order you to do things for your child and can order you to pay *restitution* to the *victim*. Some parents hire lawyers for legal advice about these issues.

NOTE: If you think you need your own lawyer and cannot afford to hire one, you can ask the court to appoint a lawyer for you. The court will decide whether to appoint you a lawyer. If it does, you might be ordered to pay back the cost of the lawyer if the court decides you can.

If my child is required to meet with probation, how can we get ready?

It's a good idea to get legal advice. A defense lawyer who specializes in juvenile justice cases can help you understand your child's rights and know what to expect. Try to find school records and other information that shows what you and your child are doing to get back on track.

At the meeting, the probation officer will talk with you and your child to figure out the best way to handle your child's case.

NOTE: At this meeting, the probation officer must tell you and your child about the *Miranda* rights. Any information you or your child share with the probation officer might be shared with the court or the prosecuting attorney (DA).

- If the alleged offense is not serious or it's the first time your child has been accused of breaking the law, the probation officer might just tell your child what they did was wrong (reprimand them) and let your child go.

- The probation officer might offer to let your child do a special *diversion program* instead of going to court. Each county has different rules and different programs. If you and your child agree to the program and your child does everything the program requires, the juvenile court does not need to get involved.
- If the offense is more serious, the probation officer might refer your child's case to the prosecuting attorney (DA). If the prosecutor decides to file charges, they will file a petition in juvenile court. That's what the rest of this form is about.

What happens if my child is taken to juvenile hall after getting arrested?

The probation officer can decide to:

- Keep your child in custody, or
- Let your child go home with you.

If the officer lets your child go, they may still:

- Ask the DA to file a petition, and
- Set limits on what your child is allowed to do while at home.

If the officer does *not* let your child go, a petition *must* be filed within 48 hours of the arrest. A detention hearing must be held the next day the court is in session. The courts are closed on Saturdays, Sundays, and holidays. You and your child *must* be given a copy of the petition. **Exception:** If your child is under 8, your child does not have a right to get a copy of the petition.

How long can they keep my child in juvenile hall?

The judge will decide at the detention hearing. The judge may release your child or keep your child in juvenile hall until the next hearing or until the whole case is over.

Can I visit my child in juvenile hall?

Usually, but before you go, contact the juvenile hall or the probation officer to find out when you can see your child.

What if the probation officer says a petition will be filed?

The petition states the things your child is accused of or charged with. It means your child's case will be sent to juvenile court. You have the right to receive a copy of the petition. If you have not received a copy of the petition, ask the probation officer or the court clerk for one.

The petition says your child did something against the law and asks the juvenile court to decide that what it says is true, but it does not prove anything.

Read the Petition Carefully! It is important to know what your child is accused of.

Are all petitions the same?

No. Each petition is tailored to the child and the alleged offense. There are two kinds of petitions:

A **601 Petition** is filed when a child has:

- Run away,
- Skipped school a lot,
- Violated a curfew, or
- Regularly disobeyed a parent or guardian.

These petitions are filed by the probation department at the juvenile court. If the court decides the charges are true, your child can become a “ward” of the court. That means the court will supervise your child, and your child must obey the court’s orders.

A **602 Petition** is for a charge that would be a *misdemeanor* (like shoplifting or simple assault) or *felony* (like stealing a car, selling drugs, rape, or murder) if an adult had done it.

These petitions are filed by the prosecuting attorney (DA). If the court decides the charges are true, the judge can:

- Order your child put on probation,
- Make your child a “ward” of the court, and
- Order your child placed out of your home or committed (locked up).

NOTE: If your family is involved with the child welfare system, talk with your lawyer about what your child’s arrest means for that case. Depending on everything that has happened, the court might decide that it’s best for your child to stay in the child welfare system, to be supervised in the juvenile justice system, or to be supervised and served in both systems.

Can my child’s case be moved to adult court?

In certain situations, the prosecuting attorney (DA) can ask the juvenile court to transfer your child’s case to adult criminal court. If that happens, talk to your child’s lawyer right away. Adult criminal cases are handled very differently and there may be very serious consequences for your child.

A case can be transferred to adult court only if your child is:

- 16 years old or older; and
- Charged with a felony.

What does the probation officer do?

Probation officers investigate children’s situations and backgrounds and write reports for the court. They also supervise children to see if they are doing what the court has ordered them to do.

Why does the probation officer write a report?

The probation officer writes reports to give the court information about your child. The reports give the judge a description of your child’s situation, including life at home and school, the current charge(s), and any previous arrests or petitions. It can also include:

- Statements from your child, you, your family, and other people who know your child well;
- A school report;
- A statement by the victim; and
- Recommendations about what the court should do if the judge finds that your child did what the petition says.

When does the judge see the reports?

The probation officer presents a report at the *detention hearing*, *disposition hearing*, and each *review hearing*. The judge uses the reports to help decide how to handle your child’s case.

2 Your Child's Court Hearings and Orders

If a petition is filed in your child's case, you and your child will have to go to juvenile court. Each time you go to court is called a "hearing." You may have to go to several court hearings. This section is about:

- What happens at the different court hearings,
- What happens after the hearings,
- What if your child becomes a ward of the court, and
- What your duties and responsibilities as a parent are.



Get Ready for Court

How will I find out about court hearings?

If your child is in custody, both you and your child will get notice at least 5 days before the hearing. Someone will deliver it personally or by certified mail.

If your child is not in custody, both you and your child will get notice of each court hearing at least 10 days before the date of the hearing. Someone will deliver it personally, by first-class mail, or, if you agree, electronically.

Can I go to my child's court hearings?

Yes. In fact, the law says you *must* go. The judge decides what is best for your child. Depending on the charges, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may let your child go home with you.

How many times will we have to go to court?

You and your child will probably need go to court several times. There will be different kinds of hearings where the court makes different decisions. *See page 8 for a table of different hearing types.*

Do we have the right to an interpreter?

Your child has a right to an interpreter. You might have a right to one, too. Ask for one if you do not speak English well and don't understand everything being said in court.

Can I speak at the court hearings?

Yes. You may speak when:

- The judge asks you questions,
- You are called as a witness, or
- The judge gives you permission.

Who else speaks at the court hearings?

Your child's lawyer will speak for your child. The prosecuting attorney (DA) will speak for the government. The probation officer may speak for the Probation Department.

Can the victim go to the hearings?

Yes. A crime victim has a right to go to and speak at any court hearing. The victim and the victim's parents (if the victim is under 18) will get notice of the hearing. Do not talk to the victim unless your lawyer tells you to.

When is the first court hearing?

If your child is in custody, the first hearing, called the *detention hearing*, must take place on the court day immediately after the petition is filed. The probation officer or prosecuting attorney (DA) must tell you when and where the hearing will be. You will also get a copy of the petition. At this hearing, the court decides only whether your child can go home or needs to stay in custody until the next hearing.

If your child is not in custody, the first hearing, often called the *initial hearing*, must take place no more than 30 days after the petition is filed. In addition to the notice described earlier, you and your child will get a copy of the petition at least 10 days before the date of this hearing.

What is a jurisdiction hearing?

The jurisdiction hearing is when the judge decides if your child actually did what it says in the petition.

Here's what to expect:

- The judge will ask your child to *admit* or *deny* the charges listed in the petition.
- Your child's lawyer will consider the evidence and the possible outcomes, and then advise your child what to do.



- If your child *admits* the charges, they give up the right to a trial. The judge will decide that the petition is true.
- If your child *denies* the charges, there will be a trial (called a *contested hearing*). The court may hold the trial on another day to give your child's lawyer time to get ready.

What happens at the "trial"?

At the trial, the prosecuting attorney (DA) will show evidence to prove the charges. Then your child's lawyer will show evidence in your child's defense. The judge will consider all the evidence and decide if the charges are true "beyond a reasonable doubt."

If there is not enough proof to decide the charges are true, the judge will dismiss the case. If your child is in custody, she or he will be let go. If this happens, skip ahead to section 3 of this form.

If the judge decides the charges are true, there will be a *disposition hearing*. That's when the judge will say what your child will need to do and where your child will live. Sometimes this hearing is right after the jurisdiction hearing, but it can also be later on the same day or on another day.

If your child is in custody, the judge can order your child to stay in custody or be released until the disposition hearing.

If you live in a different county, the court can transfer the case to your county court for the disposition hearing. Ask your child's lawyer if that is a good idea for your child's case.

What happens at the disposition hearing?

The judge will decide what orders to make to protect and rehabilitate your child and to protect the community.

The judge might order your child to:

- Live at home and obey informal probation rules for up to six months.
- Live at home, be supervised by a probation officer, and obey rules set by the judge.
- Live at a relative's home, a foster family home, a private group home, or a residential treatment program; be supervised by a probation officer; and obey rules set by the judge.

- Spend time in a county camp, home, ranch, or hall (in custody) and on probation.
- Spend time in the Division of Juvenile Justice (DJJ) of the California Department of Corrections and Rehabilitation (in custody).

The judge may also order *you*, the parent, to get counseling or parent training or do other activities.

What if the judge puts my child on probation?

If your child is put on probation, the probation officer will supervise and work with your child to make sure that your child follows:

- The law,
- The court's orders, and
- All the rules of probation.

The probation officer will also encourage your child to do well in school and participate in job training, counseling, and community programs.

How often will the probation officer see my child?

Each case is different. The probation officer may meet with your child twice a week or only once a month.

What if the judge makes my child a *ward* of the court?

The juvenile law uses special language. Children who have committed offenses become wards of the court, but are not convicted. If your child becomes a ward of the court, that means the court is in charge of some of your child's care and conduct. The court does this to protect your child and the community.

What if the judge orders my child placed in foster care?

If the judge orders suitable out-of-home or foster placement, the probation officer may place your child in:

- An adult relative's home,
- An approved foster family home,
- A licensed private group home, or
- A residential treatment program.

What if the court sends my child to a secure county facility?

Most wards of the court who need secure confinement are sent to county facilities, like a ranch, camp, or juvenile hall, where they can be close to their families and local rehabilitative services. Ask the probation department about your child's program and how you can visit and stay in touch.

What if the court sends my child to DJJ?

Only wards who have committed the most serious violent actions or need intensive treatment are sent to DJJ. If the court sends your child to DJJ, visit www.cdcr.ca.gov/Juvenile_Justice/ to get more information about where your child might go and how you can visit and stay in touch.

If my child's case was moved to adult court, can my child be sent to adult prison?

Yes, but there are limits:

- Between the ages of 16 and 18, your child *must* stay at a juvenile facility (DJJ) *even if* sentenced to adult prison.
- If your child's sentence will end before your child turns 25, your child can stay at a juvenile facility (DJJ) for the entire sentence.
- If your child's sentence will last past the age of 25, your child can stay at DJJ until age 18, then be moved to an adult prison on the child's 18th birthday.

Important! If your child's case gets moved to adult court, talk to your child's lawyer right away.

Do I have to pay for what my child did?

The court may order you to pay fines or penalties.

If the court decides that the victim is entitled to restitution, you and your child are equally responsible for paying the victim back. *Restitution* is money that pays the victim to make up for the damage or harm your child caused. Restitution can pay the victim back for:

- Stolen or damaged property,
- Medical expenses, and
- Lost wages.

If restitution is not completely paid when your child's case is closed, it will become a *civil judgment*, which can affect your credit score.

Do I have to pay fees for services my child receives from the court or county?

No. You do not have to pay fees or pay back the cost of services, support, or an attorney *given to your child* by the county or court as part of this case.

But if you can afford it, you might have to pay back the cost of services, including an attorney, *given to you or other family members* by the county or the court.

What are my responsibilities as a parent?

Your parental duties do not end when the court gets involved. Your child may need you now more than ever.

If the judge decides the charges in the petition are true, you may be ordered to do things to:

- Help make up for harm your child caused, and
- Keep your child out of trouble in the future.

The court may order you to:

- Take classes,
- Go to counseling, or
- Do other activities that will help you and your child.

What if my child is in foster care or in custody?

Wherever your child goes, stay in touch as much as you can, however you can. Visit your child as often as you can. Support your child's programs and activities. Encourage your child to obey the court's orders and not to leave the placement without permission.

Find out what is happening in your child's life so that you can get ready for your child to return home. Learn how to make a protective and supportive environment for your child's return to school or work. Develop plans to hold your child accountable for their actions.

Where can I find parenting resources?

Contact your child's probation officer. Ask for referrals to community organizations, such as parents' groups or counseling services, that can help you. Your school district and local hospital or mental health department may also have useful programs.

If you have any questions that have not been answered, you may want to contact a lawyer for help.

3 How to Keep Your Child's Juvenile Court Records Private

Will anyone be able to look at my child's juvenile records?

Maybe. Although most juvenile court records are confidential, the law sometimes allows government officials to look at them.

However, in many cases the court will "seal" your child's juvenile records. Once the records are sealed, the law treats the arrest and court case as if they never happened. That means your child can truthfully say that your child does not have a criminal or juvenile record.

Exception: If your child wants to join the military or get a federal security clearance, your child may need to disclose information about the juvenile record.

How can we seal my child's juvenile records?

It depends on your child's situation.

Sealing at dismissal. If the juvenile court dismisses your child's case without making your child a ward of the court, the court must seal your child's records.

If the court does make your child a ward and later dismisses the case because your child has satisfactorily completed probation, the court will also seal your child's records and send your child copies of the sealing order and form JV-596-INFO, *Sealing of Records for Satisfactory Completion of Probation*.

If your child completes a probation diversion program, the probation department will seal those records and give notice to your child.

Sealing on request. If your child does *not* satisfactorily complete probation or the probation diversion program, the court will *not* dismiss the case and your child's records will not be automatically sealed. Your child can either:

- Ask the court to review the probation department's decision and order the records sealed, or
- Ask the court later to seal the records. (See form JV-595-INFO, *How to Ask the Court to Seal Your Records*, for more information.)

If your child is made a ward for an offense listed in Welfare and Institutions Code section 707(b), other than sex offenses requiring the child to register as a sex offender, your child can ask the court to seal the records:

- At age 21, if your child was sent to DJJ; or
- At age 18, if your child was not sent to DJJ.

Even sealed records can be viewed by the prosecuting attorney in some cases.

Sealing not allowed. If the court found that that your child committed a sex offense listed in Welfare & Institutions Code section 707(b) when your child was 14 or older for which your child needs to register as a sex offender, then the court cannot seal your child's records.

Can my child's juvenile court record be used against him or her as an adult?

Under the three-strikes law, some serious or violent felonies committed by a child at age 16 or 17 can be counted as strikes and used against the child in the future.

Court Hearings in Juvenile Justice Court

You and your child may have to go to court several times. Each time you go is called a “hearing.” Depending on your case, there may be different kinds of hearings to make different decisions. Here are some of them. Each time you have to go to court, you and your child (if 8 or older) will get a notice. The notice will tell you the date, time, and place to go.

Kind of Hearing	What happens at this hearing
Detention	The judge will decide if your child can go home or must stay in custody until the next hearing.
Transfer to Criminal Court	The juvenile court judge will decide if the case of a child who is 16 or older should be transferred to adult criminal court. Children under 16 cannot have their cases transferred to adult court. This hearing only happens for felony charges and only if the prosecuting attorney (DA) asks for the transfer.
Jurisdiction, part 1 (pretrial or settlement conference)	<p>The judge, lawyers, and probation officer try to resolve the case without having a trial. The judge decides if your child actually did what the petition says. The judge will ask your child to <i>admit</i> or <i>deny</i> the charges listed in the petition. Your child’s lawyer will consider the evidence and possible outcomes, and then advise your child what to do.</p> <p>If your child admits the charges, your child will give up the right to a trial. The judge will decide that the petition is true.</p> <p>If your child denies the charges, there will be a trial, usually a week or two later.</p>
Jurisdiction, part 2 (trial)	<p>At the trial, the prosecuting attorney will show evidence to prove the charges. Then your child’s lawyer will present your child’s defense. The judge will consider all the evidence and decide if the charges are true “beyond a reasonable doubt.”</p> <ul style="list-style-type: none"> – <i>If there is not enough proof to decide the charges are true</i>, the judge will dismiss the case. If your child is in custody, she or he will be let go. – <i>If the judge decides the charges are true</i>, there will be a disposition hearing.
Disposition	This happens <i>only</i> if the judge decides that the petition is true. The judge then decides what orders to make for your child. This hearing is often right after the jurisdiction hearing but can also be postponed to another day.
Hearings on Motions	The court decides legal questions that affect the case.
Review Hearings	This hearing provides a way for the court to check how your child is doing on probation or in placement. If your child is placed in foster care, the court must hold a review hearing at least once every six months.

GLOSSARY OF TERMS

Civil Judgment: A court order requiring a person to pay money to another person.

Detention hearing: The first court hearing after an arrest if the child is detained in custody.

Felony: An action that would be a serious crime if committed by an adult.

In-custody detention: Keeping a person in a secure place and not letting them go free or go home.

Juvenile delinquency: See *juvenile justice*, below.

Juvenile justice: The legal system designed to guide, rehabilitate, and protect children who break the law, and to keep the community safe. Also known as “juvenile delinquency.”

Miranda: The U.S. Supreme Court case that requires law enforcement to tell persons detained in custody their rights before asking them questions.

Misdemeanor: An action that would be a less serious crime if committed by an adult.

Notice to appear: A paper telling you and your child to meet with a probation officer or go to juvenile court at a specific time and place.

Notice of hearing: A paper telling you the date, time, and place of a court hearing, and what will happen there.

Petition: A paper filed with the court that says your child did something against the law.

601 petition: A petition filed by the probation officer that accuses your child of something that’s against the law for a child to do, for example, skipping school or breaking curfew.

602 petition: A petition filed by the prosecuting attorney that accuses your child of doing something that would be a crime if an adult did it.

Probation officer: A law enforcement officer who advises the court about the orders the child needs to protect and rehabilitate the child, and supervises the child as ordered by the court.

Restitution: Money owed to the victim of an act to make up for the damage or harm done.

Terms or terms and conditions of probation: Court orders that tell a person on probation what they must and must not do.

Ward: A child whom the court has decided to supervise because the child did something against the law.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Case Name: _____	
ORDER TO TRANSFER JUVENILE TO CRIMINAL COURT JURISDICTION (Welfare and Institutions Code, § 707)	CASE NUMBER: _____

1. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
 c. Persons present:
☐ Child ☐ Child's attorney (name): _____
☐ Deputy District Attorney (name): _____ ☐ Other: _____
2. ☐ The court has read and considered ☐ the petition and report of the probation officer ☐ other relevant evidence.
3. **THE COURT FINDS (check one)**
Welfare and Institutions Code section 707
 a. ☐ The child was 16 years old or older at the time of the alleged felony offense; or
 b. ☐ The individual was 14 or 15 years of age at the time of the alleged offense, the alleged offense is an offense listed in Welfare and Institutions Code section 707(b), and the individual was not apprehended before the end of juvenile court jurisdiction.
4. **AFTER CONSIDERING EACH OF THE TRANSFER OF JURISDICTION CRITERIA, THE COURT ALSO FINDS AND ORDERS:**
 The court has considered each of the criteria in section 707(a)(3) and has documented its findings on each of the criteria on the record, and based on those findings makes the following orders:
- a. ☐ The transfer motion is denied. The child is retained under the jurisdiction of the juvenile court.
 The next hearing is on (date): _____ at (time): _____
 for (specify): _____
- b. ☐ The transfer motion is granted. The prosecutor has shown by a preponderance of the evidence that the child should be transferred to the jurisdiction of the criminal court.
- (1) ☐ The matter is referred to the District Attorney for prosecution under the general law.
- (2) ☐ The child is ordered to appear in criminal court on (date): _____ at (time): _____
 in Department: _____
- (3) ☐ The petition filed on (date): _____ is dismissed without prejudice on the appearance date in (2).
- (4) ☐ The child is to be detained in ☐ juvenile hall ☐ county jail (section 207.1).
- (5) ☐ Bail is set in the amount of: \$ _____
- (6) ☐ The child is released ☐ on own recognizance ☐ to the custody of: _____

Date: _____

JUDICIAL OFFICER

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	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association By: Deirdre Kelly President	A	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Should rule 5.770 or form JV-710 be modified in to C.S. v. Superior Court, 29 Cal.App.5th 1009 (2018), which held that the court must clearly articulate its findings for each criterion in issuing a transfer order? No. Prior to the most recent amendments to JV-710 (to comport with Prop. 57), the form contained the five factors the court needed consider for transfer and then asked the court to check a box next to each factor on which transfer was based. This committee recognized this was an outdated holdover from pre-Proposition 57 fitness hearings and needed to be changed to conform with the change in law. Specifically, prior to Proposition 57, a juvenile court judicial officer could declare a minor unfit for juvenile court by finding the minor unfit under a single factor. The Proposition 57 amendments to Welfare and Institutions Code section 707, subdivision (a)(2), clarified that the court must look to the totality of circumstances, not a single factor: “In making its decision, the court shall consider the criteria specified in subparagraphs (A) to (E) below.” This committee recognized there was an inherent and irreconcilable tension between asking the court to consider the totality of circumstances on the one hand and asking the court to check a box related to an individual circumstance in support</p>	<p>No response required.</p> <p>The committee determined that the best way to ensure that the rules and forms are consistent with the C.S. case and prompt judges to create a detailed record of their findings on each criterion in 707(a)(3) would be to amend the rule to include that requirement and to reword the findings and orders section of the form order to clarify that the record must document the court’s findings on each of the criteria.</p>

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	Commenter	Position	Comment	Committee Response
			<p>of transfer and deleted the check-the-box approach of the prior form.</p> <p>C.S. v. Superior Court (2018) 29 Cal.App.5th 1009 (“C.S.”), should not cause this committee to re-adopt the old approach. In C.S., the Court of Appeal made clear that to provide a sufficient record for review, a judge considering transfer must provide a “statement of reasons” which “articulates its evaluative process and shows how it weighed the evidence presented in light of the applicable standards.” (Id. at p. 1029, internal citations and quotation marks omitted.)</p> <p>The court explained that “without a statement of reasons detailing the lower court’s analytical process an appellate court cannot determine whether the trial court properly exercised its discretion.” (Ibid.) Stated plainly, C.S. urged trial courts to show their work: “[W]e conclude that the juvenile court’s transfer decision does not permit meaningful appellate review because the juvenile court did not clearly and explicitly articulate it’s evaluative process by detailing how it weighed the evidence and by identifying[ing] the specific facts which persuaded the court to reach its decision to transfer C.S. to adult/criminal court.” (Id. at p. 1035, internal citations and quotation marks omitted.)</p> <p>Reverting to the check-the-box approach of the prior form is the opposite of what the court in C.S. is asking of trial judges, which is to create a record of how the court reached its conclusion.</p>	

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	Commenter	Position	Comment	Committee Response
2.	Pacific Juvenile Defender Center By Sue Burrell, Policy and Training Director San Francisco	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Should rule 5.770 or form JV-710 be modified in to C.S. v. Superior Court, 29 Cal.App.5th 1009 (2018), which held that the court must clearly articulate its findings for each criterion in issuing a transfer order? Yes, but we also believe the rule should clarify that while specific findings are needed, the law has changed through Proposition 57, so that it is no longer required that a youth be amenable to juvenile court treatment (previously “fit”) on each of the criteria to avoid transfer. Prior to Proposition 57, Welfare and Institutions Code section 707, subdivision (c), required that in order to overcome the presumption of unfitness, the young person had to be found fit on all five statutory criteria: A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the five criteria set forth in subparagraph (A) of paragraphs (1) to (5) inclusive, and findings therefore recited in the order as to each of those criteria that the minor is a fit and proper minor under each and every one of those criteria, in making a</p>	<p>No response required.</p> <p>The committee determined that the best way to ensure that the rules and forms are consistent with the C.S. case and prompt judges to create a detailed record of their findings on each criterion in 707(a)(3) would be to amend the rule to include that requirement and to reword the findings and orders section to clarify that the record must document the court’s findings on each of the criteria.</p>

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	Commenter	Position	Comment	Committee Response
			<p>finding of fitness. (Former Welf. & Inst. Code §707, subd. (c), italics added.)</p> <p>For youth who were presumed fit for juvenile court, transfer could occur based on “any one or a combination of the factors set forth in clause (i) of subparagraphs (A) to (E)”.</p> <p>(Former Welf. & Inst Code, § 707, subd. (a).)</p> <p>Those specific statutory directives were eliminated by Proposition 57. (Prop 57, § 4.2, approved Nov. 8, 2016, Ballot Pamp., Gen. Elec. (Nov. 8, 2016) text of Prop. 57, p. 144.)</p> <p>Section 707 now provides only that the court “shall consider the criteria specified in subparagraphs (A) to (E), inclusive; shall “decide whether the minor shall be transferred to a court of criminal jurisdiction”; and “shall recite the basis for its decision in an order entered upon the minutes.” (Welf. & Inst. Code, § 707 (a)(3), as amended by Prop 57, §4.2, approved Nov. 8, 2016.)</p> <p>Prior to Proposition 57, many youths were found “unfit” based on one or two of the five criteria. So while we agree with the proposal to include the principle in the C.S. case on having findings sufficient to facilitate appellate review, we also think it is important to clarify that C.S. does not take us back to the pre-Proposition 57 law requiring youth to be fit on all five criteria to stay in juvenile court.</p> <p>Additional global comment: Consider changing “minor” to “youth” throughout.</p>	<p>The committee determined that it was appropriate to continue using the standard Judicial Council</p>

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	Commenter	Position	Comment	Committee Response
			<p>We are pleased at the efforts to modernize the terminology for referring to young people through use of the term “child” or “individual” to replace “minor.” We suggest further changing the term to “youth” whenever possible. That would get rid of the pejorative term “minor,” which the dictionary defines as meaning “lesser in importance, seriousness, or significance.” “Youth” seems even more appropriate than “child” for the transfer rules since most will be 16 or 17 years of age, and the ones who are eligible for crimes alleged to have been committed at 14 or 15 years of age will be past the age for juvenile court jurisdiction. A number of statutes have used the term “youth,” for example, Welfare and Institutions Code sections 224.73, 625.6, 992, 1177, 1788, 1900, 2011, 2023, 13754; some statutes use a combination of “child”, “youth,” and “minor.”</p> <p>Suggested Language Rule 5.766. General provisions (a) Hearing on transfer of jurisdiction to criminal court (§ 707) A child youth who is the subject of a petition under section 602 and who was 14 years or older at the time of the alleged felony offense may be considered for prosecution under the general law in a court of criminal jurisdiction. The district attorney or other appropriate prosecuting officer may make a motion to transfer the child youth from juvenile court to a</p>	<p>term “child” because it has a definition in statute and rule and serves as a reminder that the juvenile justice courts are focused on persons who are developmentally different from adults. The committee declined to change the term to youth because that latter term is not defined and is too broad.</p>

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	Commenter	Position	Comment	Committee Response
			<p>court of criminal jurisdiction, in one of the following circumstances:</p> <p>(1) The individual was 14 or 15 years or older of age at the time of the alleged offense listed in section 707(b) and was not apprehended before the end of juvenile court jurisdiction.</p> <p>(2) The child youth was 16 years or older at the time of the alleged felony offense.</p> <p>(b)–(d) * * *</p> <p>Rule 5.768. Report of probation officer</p> <p>(a) Contents of report (§ 707)</p> <p>The probation officer must prepare and submit to the court a report on the behavioral patterns and social history of the child-youth being considered. The report must include information relevant to the determination of whether the child youth should be retained under the jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal court, including information regarding all of the criteria in section 707(a)(2)(3). The report must also include any written or oral statement offered by the victim pursuant to section 656.2.</p> <p>(b)–(c) * * *</p> <p>Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707</p> <p>(a) * * *</p> <p>(b) Criteria to consider (§ 707)</p> <p>Following receipt of the probation officer’s report and any other relevant evidence, the court may order that the child youth be transferred to the jurisdiction of the criminal court if the</p>	

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	Commenter	Position	Comment	Committee Response
			<p>court finds:</p> <p>(1) The child youth was 16 years or older at the time of any alleged felony offense, or the individual was 14 or 15 years at the time of an alleged felony offense listed in section 707(b) and was not apprehended before the end of juvenile court jurisdiction; and</p> <p>(2) The child youth should be transferred to the jurisdiction of the criminal court based on an evaluation of all of the criteria in section 707(a)(2)(3) as provided in that section. <u>The court shall recite the basis for its decision, detailing how it weighed the evidence and identifying the specific facts that persuaded the court to reach its decision, notwithstanding that the decision shall be based on the totality of the circumstances and the youth need not be found amenable on each of the five criteria in order to remain in juvenile court.</u></p>	
3.	Superior Court of Los Angeles County	A	<p>Request for Specific Comments</p> <p>Does the proposal appropriately address the stated purpose?</p> <p>-Yes, the proposal addresses the stated purpose.</p> <p>Should rule 5.770 or form JV-710 be modified in to C.S. v. Superior Court, 29 Cal.App.5th 1009 (2018), which held that the court must clearly articulate its findings for each criterion in issuing a transfer order?</p> <p>-Yes, the rule and form should be modified.</p>	<p>No response required.</p> <p>The committee determined that the best way to ensure that the rules and forms are consistent with the C.S. case and prompt judges to create a</p>

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	Commenter	Position	Comment	Committee Response
			<p>The advisory committee also seeks comments from courts on the following cost and implementation matters: Would the proposal provide cost savings? If so please quantify. -We do not anticipate cost savings.</p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? -None.</p> <p>Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? -Yes, four months would be sufficient.</p> <p>How well would this proposal work in courts of different sizes? -There should be no significant difference.</p>	<p>detailed record of their findings on each criterion in 707(a)(3) would be to amend the rule to include that requirement and to reword the findings and orders section to clarify that the record must document the court’s findings on each of the criteria.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>
4.	Superior Court of Orange County	AM	Order to Transfer Juvenile to Criminal Court Jurisdiction (JV-710)	

Attachment A

	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none"> ▪ To remind judges that findings must be considered, and an order must be made pursuant to section 707(a)(3), it is recommended that a new section #4 be added and titled, <i>The Court Finds</i>, that will provide a court finding for each individual relevant factor under 707(a)(3). This would comply with the required findings set forth in the <i>C.S.</i> case (29 Cal.App.5th 1009). The section should include the language below: <p>Sophistication: <input type="checkbox"/> does <input type="checkbox"/> does not support the motion to transfer jurisdiction to the criminal court.</p> <p>Sufficiency of time to rehabilitate: <input type="checkbox"/> does <input type="checkbox"/> does not support the motion to transfer jurisdiction to the criminal court.</p> <p>Previous delinquent history: <input type="checkbox"/> does <input type="checkbox"/> does not support the motion to transfer jurisdiction to the criminal court.</p> <p>Previous attempts by the juvenile court to rehabilitate the minor: <input type="checkbox"/> does <input type="checkbox"/> does not support the motion to transfer jurisdiction to the criminal court.</p> <p>Gravity of the offense: <input type="checkbox"/> does <input type="checkbox"/> does not support the motion to transfer jurisdiction to the criminal court.</p> 	<p>The committee determined that the best way to ensure that the rules and forms are consistent with the <i>C.S.</i> case and prompt judges to create a detailed record of their findings on each criterion in 707(a)(3) would be to amend the rule to include that requirement and to reword the findings and orders section to clarify that the record must document the court's findings on each of the criteria.</p>

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			<ul style="list-style-type: none"> ▪ The existing number #4, <i>The Court Also Finds and Orders</i> section, should be renumbered to #5. ▪ Minors who were under the adult court jurisdiction prior to section 707 being amended may be referred to juvenile court for a transfer hearing. The prosecutor or the former minor may request to have the motion withdrawn if the petitioner was under 16 years of age at the time of the violation. Due to this, it is recommended that a subsection “b” be added to <i>The Court Also Finds and Orders</i> section that reads: <ul style="list-style-type: none"> <input type="checkbox"/> The transfer motion has been withdrawn by the <input type="checkbox"/> petitioner <input type="checkbox"/> prosecutor. The next hearing is on (<i>date</i>): at (<i>time</i>): <p>Rule 5.766, 5.768, and 5.770</p> <ul style="list-style-type: none"> ▪ It is recommended the word “child” be replaced with “minor” in the rules to be consistent with language used in section 707. ▪ Orange County has started referring to “minors” as “youth” since in many cases the accused youth are no longer minors. <p>Request for Specific Comments Would the proposal provide a cost savings? -No, the proposal would not provide a cost savings.</p>	<p>The committee determined that this form was not the appropriate place to include this motion as the form is expressly an order on a transfer motion and any withdrawal can be made in a minute order without using a Judicial Council form.</p> <p>The committee determined that it was appropriate to continue using the standard Judicial Council terminology of child because it has a definition in statute and rule and serves as a reminder that the juvenile justice courts are focused persons who are developmentally different from adults. The committee declined to change to youth because that term is not defined and is too broad.</p> <p>No response required.</p>

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			<p>What would the implementation requirements be for courts?</p> <p>-Judges and staff would be notified of the changes in the rule and forms. Procedures updates and changes to the case management system may be needed.</p> <p>Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>-Yes, four months would be sufficient time for implementation.</p>	<p>The committee will note these impacts in its report to the Judicial Council.</p> <p>No response required.</p>
5.	Superior Court of Riverside County By: Susan Ryan Chief Deputy – Legal Services	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>-Yes. The updates to Rules 5.766, 5.768 and 5.770 seem to implement the changes of SB 1391. Updating the JV-060-INFO will give more accurate and updated information to parents of 14 and 15 year olds.</p> <p>Should rule 5.770 or form JV-710 be modified in to C.S. v. Superior Court, 29 Cal.App.5th 1009 (2018), which held that the court must clearly articulate its findings for each criterion in issuing a transfer order?</p> <p>-Updating the JV-710 could be helpful but is not necessary. Some courts do not use the JV-710 but instead would include the findings for each criteria in the minute order for the transfer. It may be a good idea to update Rule 5.770 to state that the trial court must clearly articulate each criterion.</p>	<p>No response required.</p> <p>The committee determined that the best way to ensure that the rules and forms are consistent with the C.S. case and prompt judges to create a detailed record of their findings on each criterion in 707(a)(3) would be to amend the rule to include that requirement and to reword the findings and orders section to clarify that the record must document the court’s findings on each of the criteria.</p>

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			<p>Would the proposal provide cost savings? -No.</p> <p>What would the implementation requirements be for courts? -Notify the judicial officers, court staff and justice partners of the forms changes and Rule changes. Some minute codes may need to be created or updated in the case management system to allow the court to clearly articulate the findings for each criteria.</p> <p>Would four months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? -Yes</p> <p>How well would this proposal work in courts of different sizes? -The same notifications and update codes would likely need to be made in all courts. The proposal should work for courts of all sizes.</p>	<p>No response required.</p> <p>The committee will note these impacts in its report to the Judicial Council.</p> <p>No response required.</p> <p>No response required.</p>
6.	Superior Court of San Diego County By: Mike Roddy Executive Officer	AM	<p>CRC 5.766(d) has an odd footnote. It says “So in original“ to justify a double “the”. The sentence should be fixed and the footnote deleted.</p> <p>CRC 5.770(b)(1): add “of age” after “14 or 15 years”</p>	<p>The committee has modified the proposal to correct this error in the rule of court.</p> <p>The committee has adopted this suggestion.</p>

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			<p>CRC 5.770(c): revise to add the requirements of <i>C.S. v. Superior Court</i>, 29 Cal.App.5th 1009 (2018)</p> <p>JV-060-INFO: still says age 14 on page 6 when talking about adult prison; change to 16</p> <p>JV-710: revise to comply with <i>C.S. v. Superior Court</i>, 29 Cal.App.5th 1009 (2018)</p>	<p>The committee agrees and has modified the proposal to add these requirements to the rule.</p> <p>The committee has made this recommended change.</p> <p>The committee has revised the proposal for revising form JV-710 to make clearer the required findings that the court must make on the record in transfer cases.</p>