



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 20-188*

For the business meeting on September 25, 2020

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Title	Agenda Item Type
Family Law: Technical Changes to Miscellaneous Forms	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms FL-115, FL-117, FL-130, FL-240, FL-356	January 1, 2021
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	August 28, 2020
Hon. Jerilyn L. Borack, Cochair	Contact
Hon. Mark A. Juhas, Cochair	Gabrielle Selden, 415-865-8085 <a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a> Gregory Tanaka, 415-865-7671 <a href="mailto:gregory.tanaka@jud.ca.gov">gregory.tanaka@jud.ca.gov</a>

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### **Executive Summary**

The Family and Juvenile Law Advisory Committee recommends making revisions, which are technical or minor and noncontroversial in nature, to forms FL-115, FL-117, FL-130, FL-240, and FL-356. The revisions are necessary to correct forms that were inadvertently omitted from a series of parentage forms that the Judicial Council revised, effective January 1, 2020.

### **Recommendation**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2021:

1. Revise forms FL-115, FL-117, FL-130, and FL-240, to reflect the current titles of forms FL-200 and FL-235;
2. Revise forms FL-115, FL-240, and FL-356 by deleting gender-specific references, such as “mother” and “father,” and instead using gender-neutral language;

3. Revise form FL-240 by:
  - (a) Deleting all instances of the phrase “shall be” (as in, the following terms of custody and support “shall be ordered” or “shall be paid”), and inserting the plain language statement that “the parties stipulate that the court order” the following terms “as proposed in” the attached forms;
  - (b) Replacing the word “establishment” with the word “determination” in the title of the form;
  - (c) Correcting the titles of Judicial Council forms identified on that form by identifying the category “—Custody and Support” after the form titles, and in the footer of the form; and
  - (d) Replacing “visitation” with “visitation (parenting time).”
4. Revise forms FL-115 and FL-117 to include the acronym “(UCCJEA), which was inadvertently omitted from the title of form FL-105.

The proposed revised forms are attached at pages 4–10.

### **Relevant Previous Council Action**

At its meeting on October 27, 2000, the Judicial Council approved the policy of rewriting rules to discontinue the use of the word *shall*. The policy of using *must* instead of *shall* was an attempt to use clear, simple language in rules. Since then, forms and rules have been rewritten to remove references to the word *shall*.

Effective January 1, 2020, the Judicial Council revised multiple family law forms to reflect changes in the law and make the forms consistent with other parentage forms.<sup>1</sup>

### **Analysis/Rationale**

In the *Family Law: Changes to Parentage Rules and Forms* report (link in footnote 1, below), the Judicial Council’s revisions to the forms in that proposal included:

- Revising the titles of forms FL-200 and FL-235 to replace the terms “establish” and “establishment” with the terms “determine” and “determination,” to reflect the use of the term *determine* in the Family Code, thereby covering actions in which a party is seeking to establish or disestablish a parental relationship;
- Replacing the term *visitation* with *visitation (parenting time)*; and
- Using gender-neutral references to the parties and children.

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<sup>1</sup> The report to the Judicial Council may be found at <https://jcc.legistar.com/View.ashx?M=F&ID=7693361&GUID=0723E145-B444-4B7F-8762-0F753FD3E01F>.

Forms FL-115, FL-117, FL-130, FL-240, FL-356 have been revised as necessary to incorporate the above-listed minor technical changes.

In addition, form FL-240 has been revised to reflect the Judicial Council’s policy of rewriting rules to discontinue the use of the word shall in favor of clearer, plain language.

### **Policy implications**

The above changes are consistent with the policy of ensuring consistency in rules and forms, discontinuing the use of the word “shall,” using gender neutral terms, and writing rules and forms using plain language.

### **Comments**

This proposal did not circulate for comment. Under rule 10.22(d)(2) of the California Rules of Court, because the recommended changes to forms FL-115, FL-117, FL-130, FL-240, and FL-356 are technical or minor substantive changes, which are unlikely to create controversy, council adoption without circulation is an option.

### **Alternatives considered**

The committee considered making no revisions to the forms at this time but concluded that the revisions are necessary to (1) correct forms that were inadvertently omitted from a series of parentage forms that the Judicial Council previously revised, (2) include the correct titles of other Judicial Council forms (3) revise language in forms to use gender neutral terms, and (4) delete and replace the term “shall” wherever it appear in the forms.

### **Fiscal and Operational Impacts**

Implementation of the revisions will require courts to incur standard reproduction costs for the forms. In addition, because the forms are available in other languages, there will be costs to translate the revised forms.

### **Attachments and Links**

1. Forms FL-115, FL-117, FL-130, FL-240, and FL-356, at pages 4–10



PETITIONER: RESPONDENT:	CASE NUMBER:
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3. c.  **Mail and acknowledgment service.** I mailed the copies to the respondent, addressed as shown in item 2, by first-class mail, postage prepaid, on *(date)*: from *(city)*:
- (1)  with two copies of the *Notice and Acknowledgment of Receipt* (form [FL-117](#)) and a postage-paid return envelope addressed to me. **(Attach completed *Notice and Acknowledgment of Receipt* (form [FL-117](#)).** (Code Civ. Proc., § 415.30.)
- (2)  to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., §§ 415.40, 417.20.)
- d.  **Other** (*specify code section*):
- Continued on Attachment 3d.

4. **Person who served papers**

Name:  
Address:

Telephone number:

This person is

- a.  exempt from registration under Business and Professions Code section 22350(b).
- b.  not a registered California process server.
- c.  a registered California process server:  an employee or  an independent contractor
- (1) Registration no.:
- (2) County:
- d. **The fee** for service was (*specify*): \$

5.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or-
6.  **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF PERSON WHO SERVED PAPERS)

\_\_\_\_\_  
(SIGNATURE OF PERSON WHO SERVED PAPERS)



PARTY WITHOUT ATTORNEY or 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

v 8/10/2020gs

CASE NUMBER:

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PETITIONER:

RESPONDENT:

**APPEARANCE, STIPULATIONS, AND WAIVERS**

**1. Appearance by respondent (you must choose one):**

- a.  By filing this form, I make a general appearance.
- b.  I have previously made a general appearance.
- c.  I am a member of the military services of the United States of America. I have completed and attached to this form *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003* (form FL-130(A)).

**2. Agreements, stipulations, and waivers (choose all that apply):**

- a.  The parties agree that this cause may be decided as an uncontested matter.
- b.  The parties waive their rights to notice of trial, a statement of decision, a motion for new trial, and the right to appeal.
- c.  This matter may be decided by a commissioner sitting as a temporary judge.
- d.  The parties have a written agreement that will be submitted to the court, or a stipulation for judgment will be submitted to the court and attached to *Judgment (Family Law)* (form FL-180).
- e.  None of these agreements or waivers will apply unless the court approves the stipulation for judgment or incorporates the written settlement agreement into the judgment.
- f.  This is a parentage case, and both parties have signed an *Advisement and Waiver of Rights Re: Determination of Parental Relationship* (form FL-235) or its equivalent.

**3. Other (specify):**

Date: \_\_\_\_\_  
\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PETITIONER)

Date: \_\_\_\_\_  
\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF RESPONDENT)

Date: \_\_\_\_\_  
\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF ATTORNEY FOR PETITIONER)

Date: \_\_\_\_\_  
\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF ATTORNEY FOR RESPONDENT)

PARTY WITHOUT ATTORNEY or 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="font-size: 24pt; font-weight: bold; text-align: center;">Draft</p> <p style="text-align: center; font-size: 18pt;">Not approved by the Judicial Council</p> <p style="text-align: center; font-size: 18pt;">v 8/10/2020gs</p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<p style="text-align: center;"><b>STIPULATION FOR ENTRY OF JUDGMENT RE: DETERMINATION OF PARENTAL RELATIONSHIP</b></p>	

CASE NUMBER:

**THE PARTIES STIPULATE THAT**

- The parties read and understand the *Advisement and Waiver of Rights Re: Determination of Parental Relationship* (form [FL-235](#)), which is submitted with this *Stipulation for Entry of Judgment*. The parties give up those rights and freely agree that a judgment may be entered in accordance with this stipulation.
- Name:  
Name:  
are the parents of the following children:  
Name Date of Birth

**THE PARTIES STIPULATE THAT THE COURT ORDER:**

- Child custody and visitation (parenting time) as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- Child support as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- Attorney fees as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- Changes to the names of children as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- Reasonable costs of pregnancy and birth as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- Other orders as proposed in *Judgment (Uniform Parentage—Custody and Support)* (form [FL-250](#)).
- The parties further agree that the court make the following orders:  See attachment 9.

Date: _____ (TYPE OR PRINT NAME)	 (SIGNATURE OF PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	 (SIGNATURE OF RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	 (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	 (SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	 (SIGNATURE OF OTHER PARTY OR ATTORNEY)



PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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- 8. After the court has made final orders in this case, identified in item 6, the child will be legally placed under the custody of an individual appointed by the court. The court will have jurisdiction to determine requests to modify or terminate these orders, unless another court acquires valid jurisdiction, until the child reaches 18 years of age.
- 9. I understand that section 3026 of the Family Code prohibits the court from ordering reunification services as part of a child custody proceeding. After the court has issued final orders giving sole physical custody to one parent, return of the child to the physical custody of another parent (i.e., reunification) will not be legally possible while those orders are in effect.

**I REQUEST THAT THE COURT MAKE THE FOLLOWING FINDINGS:**

- 10. The child has been placed in the custody of *(name)*:  
 who is an individual appointed by the court as described in the orders referred to in 7, 8, and 9.
- 11. Reunification with *(specify name or names)*:  
 is not viable under California law because of *(check all that apply)*.
  - abuse
  - neglect
  - abandonment
  - another legal basis *(specify)*:

Facts supporting this finding *(specify)*:

Continued on Attachment 11.

- 12. It is not in the best interest of the child to be returned to the child's or the parent's country of nationality or country of last habitual residence *(specify country or countries)*:

Facts supporting this finding *(specify)*:

Continued on Attachment 12.

- 13.  Additional documents in support of the request are attached and incorporated into this form. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information on this form is true and correct.

Date:

  
 \_\_\_\_\_  
 (SIGNATURE)