



Judicial Council of California

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

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR24-20

Title

Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 5.551; amend rules 5.510, 5.552, and 5.553; adopt form JV-576; revise forms JV-569, JV-570, JV-571, JV-572, JV-573, and JV-574

Proposed by

Family and Juvenile Law Advisory Committee
Hon. Stephanie E. Hulseley, Cochair

Action Requested

Review and submit comments by May 3, 2024

Proposed Effective Date

January 1, 2025

Contact

Stephanie Lacambra, 415-865-7564
stephanie.lacambra@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending one rule of court to implement Assembly Bill 1756 (Stats. 2023, ch. 478, § 62), which amended Welfare and Institutions Code section 10850.4 to extend the juvenile court's jurisdiction in cases involving the death of a child or nonminor dependent. The committee also proposes adopting one rule of court, amending two rules of court, adopting a new form, and revising six forms to clarify the different legal standards for petitions seeking disclosure of a living child's juvenile case file under section 827(a)(3) and a deceased child's juvenile case file under section 827(a)(2).

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Background

AB 1756 and Welfare and Institutions Code section 10850.4(q)

Effective January 1, 2024, AB 1756 amended Welfare and Institutions Code¹ section 10850.4(q), which governs the release of juvenile records in dependency cases in which a child or nonminor dependent dies while subject to the jurisdiction of the juvenile court and there is a reasonable suspicion that the fatality was caused by abuse or neglect. The statutory amendments provide that the court may retain jurisdiction for the purpose of receiving documents and information related to the circumstances of the death. Rule 5.510 of the California Rules of Court² should be amended accordingly to incorporate the revised language in section 10850.4(q).

Different standards for release of juvenile records of living versus deceased children

Access to juvenile court records is governed by section 827, which restricts access to specific individuals and organizations enumerated in subdivision (a)(1). Any party not statutorily entitled to access under that subdivision must petition the juvenile court for access to and/or disclosure of juvenile court records.

Subdivision (a)(3) applies to requests for records of a living child; subdivision (a)(2) applies to requests for records of a deceased child. The different requests are subject to different legal standards. Petitioners seeking the files of living children under subdivision (a)(3) must establish good cause and demonstrate that disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a living child who is directly or indirectly connected to the juvenile case that is the subject of the petition. When reviewing the petition for access or disclosure of the juvenile court records of a living child, the court must balance the interests of the living child and other parties to the juvenile court proceedings, the interests of the petitioner, and the interests of the public, as well as consider several factors enumerated in rule 5.552(d).

In contrast, petitioners seeking the juvenile case files of deceased children under subdivision (a)(2) are statutorily entitled to release of the records because there is a presumptive public right of access to such records.³ The presumption is only overcome if the objecting party shows, by a preponderance of the evidence, that release of the juvenile case file, or any portion thereof, is detrimental to the safety, protection, or physical or emotional well-being of a surviving child or nonminor dependent who is directly or indirectly connected to the juvenile case that is the subject of the petition. The Legislature intended to promote prompt access to the records of children who die while in the custody of the state and recognized that delays in accessing the

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² All further unspecified rule references are to the California Rules of Court.

³ See § 827(a)(2): “(A) [J]uvenile case files . . . that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. (B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist. (C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.”

juvenile case files of deceased children reduce the likelihood that disclosure of those files will bring public attention to problems in the juvenile court system and result in corresponding reforms.⁴

Rules 5.552 and 5.553 address the confidentiality of juvenile court records for living and deceased children, respectively, and provide guidance on requests for access to and release of juvenile case files. Currently, the rules as written do not explicitly set forth the main difference in the two standards for release—namely the presumptive public right of access for the juvenile case files of deceased children.

In addition to addressing changes necessitated by AB 1756, the committee also considered and addressed input received from dependency practitioners and academic institutions that these rules do not sufficiently distinguish between the two different types of requests and their different procedures. Likewise, the forms for use in juvenile case file requests under section 827 do not reflect the presumptive public right of access to the juvenile case files of deceased children.

The Proposal

The Family and Juvenile Law Advisory Committee proposes adopting rule 5.551, amending rules 5.510, 5.552, and 5.553, adopting one new form, and revising the existing forms used in juvenile case file requests, to implement AB 1756 in cases in which the death of a child or nonminor dependent occurred while subject to the jurisdiction of the court. The changes would also clarify the legal standards for petitions seeking disclosure of a living child’s juvenile case file under section 827(a)(3) and a deceased child’s juvenile case file under section 827(a)(2). The proposed amendments would benefit the judicial branch, justice partners, attorneys, and litigants by clarifying the presumptive public right of access to juvenile case files of deceased children consistent with legislative intent to further governmental transparency and accountability.

Rule 5.510

The committee proposes adding a new subdivision (d) to rule 5.510 to incorporate AB 1756’s discretionary extension of the juvenile court’s jurisdiction for the limited purpose of receiving documents and information related to the circumstances of the death of a child while under the jurisdiction of the juvenile court. If the court chooses to retain jurisdiction, subdivision (d) would require that the case be kept open until the court receives the documents and information related to the circumstances of death, and terminate jurisdiction upon receipt.

Clarifying the different standards for release of juvenile case records

To clarify the differences between the process for release of juvenile case file records for living children and deceased children, particularly the presumption in favor of release of documents

⁴ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill 199 (1999–2000 Reg. Sess.), as amended May 6, 1999, p. 5 (stating a delay in the process harms the statute’s purpose because “the community’s reaction would have died down, and the opportunity to effect positive change may have passed”).

when a child is deceased, the committee proposes the following changes to the rules of court and accompanying Judicial Council forms.

Rule 5.551

Rule 5.551 would be adopted to set forth the general definition of a “juvenile case file” and applicability of other laws to the confidentiality of juvenile case files for both living and deceased children, since these subdivisions apply equally to both classes of children. The committee proposes moving the definition of a juvenile case file from rule 5.552(a) to the newly adopted rule 5.551(a), and re-lettering the remainder of rule 5.552 accordingly. In addition, the committee proposes moving the applicability of other confidentiality laws from rule 5.552(g) to the newly adopted rule 5.551(b).

Rule 5.552

Rule 5.552 sets forth the process for petitioning for release of the juvenile case files of living children. The committee proposes adding specific language to clarify that the rule only applies to petitions requesting the juvenile case files of *living* children by adding the words “of a living child” to subdivisions (b), (d)(1), and (d)(3)–(8), which will be re-lettered.

Rule 5.553

Rule 5.553 governs the process for petitioning for release of the juvenile case files of deceased children. The committee proposes amending the rule to add the presumption of public access to and procedural timelines for petitions requesting the juvenile case files of *deceased* children under section 827(a)(2). The committee also proposes adding language to clarify that the rule specifically applies to the disclosure of the juvenile case files for deceased children and expanding the rule to mirror the applicable timelines and procedures set forth in rule 5.552.

In addition, the committee proposes the following changes to rule 5.553:

- New subdivision (a) (Petition for requesting a deceased child’s juvenile case file) would retain the language of current rule 5.553(1) and (2), but clarify that a person or agency seeking to inspect or obtain juvenile case files of deceased children, who is not otherwise entitled to inspect records under sections 827(a)(1) or 16502.5, must petition the presiding judge of the juvenile court for authorization.
- New subdivision (b) (Notice of petition requesting a deceased child’s juvenile case file) would instruct petitioners seeking the juvenile case file of a deceased child on the proper procedure for filing and serving the petition and instruct the custodian of records on the proper procedure for serving interested parties. Parties responsible for the maintenance of the deceased child’s juvenile case file or with a privacy interest in and standing to object to the release of a deceased child’s juvenile case file would be served with a blank *Objection to Release of Juvenile Case File* (form JV-572) under subdivision (b)(1). Other parties without a privacy interest in the deceased child’s juvenile case file would be served with the new proposed *Input on Release of Juvenile Case File* (form JV-576) because they lack standing to object to the release of a deceased child’s juvenile case file.

- New subdivision (c) (Procedure for requesting a deceased child’s juvenile case file) would instruct the juvenile court on the timing of objections, input forms, replies, and hearings, and the different legal standard for releasing juvenile case files of deceased children, including the presumption of the public right of access to these records. Objections filed by form JV-572 would trigger the need for the juvenile court to hold a hearing no more than 60 calendar days from the date the petition is served on the custodian of records. However, input presented in proposed new form JV-576 by parties lacking standing to object, would not trigger the need for a formal hearing. If an objection is not filed to the petition, the court would only need to review the petition and issue its decision within 10 calendar days of the final day for filing an objection.

Forms for access to and disclosure of juvenile records

The committee proposes revising the forms that are used to request a juvenile case file to clarify the different standards for requesting the juvenile case file of a living and a deceased child. In addition, the committee proposes modifying the titles of these forms to reflect that they are for use in filing petitions requesting juvenile case file information that include requests for the juvenile case file of a living child and for disclosure of the juvenile case file of a deceased child to the public.

Proof of Service–Petition for Access to Juvenile Case File (JV-569)

Form JV-569 would be retitled *Proof of Service—Petition Requesting Juvenile Case File*. Item 2 would be revised to add option k: “Any surviving child, sibling, or nonminor dependent who is directly or indirectly connected to, or may be identified by, information in the juvenile case that is the subject of the petition.”

Petition for Access to Juvenile Case File (JV-570)

Form JV-570 would be retitled *Petition Requesting Juvenile Case File*. Item 6 would be revised to add option g: “Presumptive public right of access to the file of a deceased child.” Item 7 would be revised to state, “I need the records of a living child because (*describe in detail; attach more pages if you need more space*).” And the instructions for a member of the public requesting the juvenile case file of a deceased child would be renumbered accordingly to include items 1-6 and 8.

Notice of Petition for Access to Juvenile Case File (JV-571)

Form JV-571 would be retitled *Notice of Petition Requesting Juvenile Case File*. The first sentence would be revised to state: “For a living child, you must provide notice to all those listed in item 2 on *Proof of Service—Petition Requesting Juvenile Case File* (form JV-569).”

Objection to Release of Juvenile Case File (JV-572)

Form JV-572 would be revised to reflect the retitled form JV-570.

Order on Petition for Access to Juvenile Case File (JV-573)

Form JV-573 would be retitled *Order on Petition Requesting Juvenile Case File*. Subheadings for “Orders relating to records of living children” would be added before item 1, “Orders relating

to records of deceased children” would be added before item 4, and “Additional orders” would be added before item 6. Item 4 would be revised to state: “The child is deceased, an objection to the request has been filed, and the court sets a hearing on the request within 60 calendar days from the date the petition was served on the custodian of records.” Item 5 would be revised to state: “The child is deceased and the court will conduct a review of the juvenile case file without a hearing because no objections were filed.”

Order After Judicial Review on Petition for Access to Juvenile Case File (JV-574)

Form JV-574 would be retitled *Order After Judicial Review on Petition Requesting Juvenile Case File*. Items 2 and 3 would be revised to state, “After review of the juvenile case file of a living child” Item 4b would be revised to replace “child who is the subject of the juvenile case file and the interests of other children” with “surviving children, siblings, and nonminor dependents.” Items 6-7 would be moved up between items 3 and 4 and renumbered to consolidate all the orders relating to the records of living children together. Subheadings for “Orders relating to records of living children” would be added before item 1, and “Orders relating to records of deceased children” would be added before renumbered item 6.

Input on Release of Deceased Child’s Juvenile Case File (JV-576)

New optional form JV-576 would be adopted to permit parties listed in rule 5.553(b)(4), who lack a privacy interest in the release of the deceased child’s juvenile case file and thus standing to object, to inform the court of any input regarding the petition requesting a deceased child’s juvenile case file, without triggering the need for a formal hearing. The committee considered providing the *Objection to Release of Juvenile Case File (JV-572)* to all the same parties listed in rule 5.552, however not all the listed parties have standing to assert an objection to the release of a *deceased* child’s juvenile case file. The difference between noticed parties in rule 5.552 and rule 5.553 is that only living children whose identity or information may be revealed by disclosure retain a privacy interest and standing to object to the release of a deceased child’s juvenile case file. The right to privacy that gives standing to object to the release of a juvenile case file expires upon the death of the child.⁵ For this reason, the committee developed a new form to give parties without standing to object a method to provide input to the court regarding the petition requesting release of the deceased child’s juvenile case file.

Alternatives Considered

The Juvenile and Family Law Advisory Committee considered proposing amendments only to rule 5.510 to implement AB 1756. However, the committee noted that there is confusion around the different standards governing requests for access to the juvenile case file of a living child and requests for disclosure of the juvenile case file of a deceased child. Thus, it concluded that the additional proposed amendments to the rules and revisions to forms would be helpful to courts, litigants, and the public by providing clarification and better guidance on the proper standards and procedure for access to and disclosure of juvenile case files. The committee considered proposing a separate form for petitions requesting a deceased child’s juvenile case file, but

⁵ See Flynn v. Higham (1983) 149 Cal.App.3d 677 (Finding the right to privacy does not survive, but dies with the person). The deceased, their estates, and their representatives have no cognizable privacy interests to assert.

decided to revise the existing forms to include both standards for release and instead solicit public comment about the clarity of the revised forms and whether a separate form was necessary. The committee rejected the alternative of taking no action because amendments to rule 5.510 are legislatively mandated.

Fiscal and Operational Impacts

Implementation of AB 1756 and clarification of the standards and process for disclosure of the juvenile case files of deceased children may create additional costs for courts to update their case management systems to track relevant information and hearing and decision deadlines.

Education or training on the legal standard and procedural requirements for the disclosure of the juvenile case files of deceased children may be required for courts, social welfare agencies, probation departments, county counsel, prosecutors, and defense counsel.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should there be a separate form for petitions requesting a deceased child’s juvenile case file?
- Are all relevant, interested parties afforded proper notice under rule 5.553(b)? If not, who should also receive notice and why?

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.
- 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?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 5.510, 5.551, 5.552 and 5.553, at pages 8–16;
2. Forms JV-569, JV-570, JV-571, JV-572, JV-573, JV-574, and JV-576, at pages 17–28;
3. Link A: Welf. & Inst. Code, § 10850.4,
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=202320240AB1756&showamends=false

Rules 5.510, 5.552, and 5.553 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 5.510. Proper court; determination of child’s residence; ~~exclusive~~ jurisdiction**

2
3 (a)–(c) * * *

4
5 **(d) Retention of jurisdiction (§ 10850.4(q)(1))**

- 6
7 (1) If the death of a child or nonminor dependent occurs while the child or
8 nonminor dependent is subject to the jurisdiction of the court, whether or not
9 a section 332 dependency petition has been filed, the court may retain
10 jurisdiction on its own motion, or at the request of a party, for the limited
11 purpose of receiving documents and information related to the circumstances
12 of the death, including but not limited to medical records, police reports, and
13 autopsy reports.
14
15 (2) If the court retains jurisdiction, the case must remain open until the court
16 receives the documents and information. The court may order the placing
17 agency to request the documents and information related to the circumstances
18 of death be sent to the court.
19
20 (3) The court must terminate jurisdiction upon receipt of the documents and
21 information.
22

23 **Rule 5.551. Confidentiality of juvenile records (§ 827(a))**

24
25 The following apply to the confidentiality of juvenile records generally, for the purposes
26 of this rule and rules 5.552 and 5.553, which govern the confidentiality of the records of
27 living and deceased children, respectively.
28

29 **(a) Definition of a “Juvenile case file” includes:**

- 30
31 (1) All documents filed in a juvenile court case;
32
33 (2) Reports to the court by probation officers, social workers of child welfare
34 services programs, and CASA volunteers;
35
36 (3) Documents made available to probation officers, social workers of child
37 welfare services programs, and CASA volunteers in preparation of reports to
38 the court;
39
40 (4) Documents relating to a child concerning whom a petition has been filed in
41 juvenile court that are maintained in the office files of probation officers,
42 social workers of child welfare services programs, and CASA volunteers;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (5) Transcripts, records, or reports relating to matters prepared or released by the court, probation department, or child welfare services program; and
- (6) Documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings.

(b) Other applicable statutes law

- Under no circumstances must ~~this~~ rules 5.551 through 5.553, inclusive, or any section thereof, be interpreted to permit access to or release of records protected under any other federal or state law, including Penal Code section 11165 et seq., except as provided in those statutes, or to limit access to or release of records permitted under any other federal or state statute.

Rule 5.552. Procedure for requesting a living child’s juvenile case file (§§ 827(a)(3), 827.12, 828)

(a) Petition requesting a living child’s juvenile case file

The juvenile case file of a living child may be obtained or inspected only in accordance with sections 827, 827.12, and 828. They may not be obtained or inspected by civil or criminal subpoena. With the exception of those persons permitted to inspect juvenile case files without court authorization under sections 827 and 828, and the specific requirements for accessing juvenile case files provided in section 827.12(a)(1), every person or agency seeking to inspect or obtain the juvenile case files of a living child must petition the court for authorization using *Petition for Access to Requesting Juvenile Case File* (form JV-570). A chief probation officer seeking juvenile court authorization to access and provide data from case files in the possession of the probation department under section 827.12(a)(2) must comply with the requirements in (ed) of this rule.

- (1) The specific files sought of a living child must be identified based on knowledge, information, and belief that such files exist and are relevant to the purpose for which they are being sought.
- (2) Petitioner must describe in detail the reasons the files of a living child are being sought and their relevancy to the proceeding or purpose for which petitioner wishes to inspect or obtain the files.

1 (b) **Notice of petition ~~for access~~ requesting a living child’s juvenile case file**

2
3 (1) At least 10 days before the petition is submitted to the court, the petitioner
4 must personally or by first-class mail serve *Petition ~~for Access to~~ Requesting*
5 *Juvenile Case File* (form JV-570), *Notice of Petition ~~for Access to~~ Requesting*
6 *Juvenile Case File* (form JV-571), and a blank copy of *Objection to Release*
7 *of Juvenile Case File* (form JV-572) on the following:
8

9 (A) The county counsel, city attorney, or any other attorney representing
10 the petitioning agency in a dependency action if the child’s petition was
11 filed under section 300;
12

13 (B) The district attorney if the child’s petition was filed under section 601
14 or 602;
15

16 (C) The child if the child is 10 years of age or older;
17

18 (D) The attorney of record for the child who remains a ward or dependent
19 of the court;
20

21 (E) The parents of the child if:
22

23 (i) The child is under 18 years of age; or
24

25 (ii) The child’s petition was filed under section 300;
26

27 (F) The guardians of the child if:
28

29 (i) The child is under 18 years of age; or
30

31 (ii) The child’s petition was filed under section 300;
32

33 (G) The probation department or child welfare agency, or both, if
34 applicable;
35

36 (H) The Indian child’s tribe; and
37

38 (I) The child’s CASA volunteer.
39

40 (2) The petitioner must complete *Proof of Service—~~Petition for Access to~~*
41 *Requesting Juvenile Case File* (form JV-569) and file it with the court.
42

1 (3) If the petitioner or the petitioner’s counsel does not know or cannot
2 reasonably determine the identity or address of any of the parties in (e**b**)(1)
3 above, the clerk must:

4
5 (A) Serve personally or by first-class mail to the last known address a copy
6 of *Petition ~~for Access to~~ Requesting Juvenile Case File* (form JV-570),
7 *Notice of Petition ~~for Access to~~ Requesting Juvenile Case File* (form
8 JV-571), and a blank copy of *Objection to Release of Juvenile Case*
9 *File* (form JV-572); and

10
11 (B) Complete *Proof of Service—Petition ~~for Access to~~ Requesting Juvenile*
12 *Case File* (form JV-569) and file it with the court.

13
14 (4) For good cause, the court may, on the motion of the person seeking the order
15 or on its own motion, shorten the time for service of the petition ~~for access~~
16 requesting a juvenile case file.

17
18 (c) **Procedure for requesting a living child’s juvenile case file**

19
20 (1) The court must review the petition requesting a living child’s case file and, if
21 petitioner does not show good cause, deny it summarily.

22
23 (2) If petitioner shows good cause, the court may set a hearing. The clerk must
24 notice the hearing to the persons and entities listed in (e**b**)(1) above.

25
26 (3) Whether or not the court holds a hearing, if the court determines that there
27 may be information or documents in the records sought to which the
28 petitioner may be entitled, the juvenile court judicial officer must conduct an
29 in camera review of the juvenile case files of the living child and any
30 objections and assume that all legal claims of privilege are asserted.

31
32 (4) In determining whether to authorize inspection or release of the juvenile case
33 files of a living child, in whole or in part, the court must balance the interests
34 of the living child and other parties to the juvenile court proceedings, the
35 interests of the petitioner, and the interests of the public.

36
37 (5) If the court grants the petition, the court must find that the need for access
38 outweighs the policy considerations favoring confidentiality of the juvenile
39 case files of a living child. The confidentiality of the juvenile case files of a
40 living child is intended to protect the privacy rights of the living child.

41
42 (6) The court may permit access to the juvenile case files of a living child only
43 insofar as is necessary, and only if petitioner shows by a preponderance of

1 the evidence that the records requested are necessary and have substantial
2 relevance to the legitimate need of the petitioner.

3
4 (7) If, after in camera review and review of any objections, the court determines
5 that all or a portion of the juvenile case files of a living child may be
6 accessed, the court must make appropriate orders, specifying the information
7 that may be accessed or disclosed and the procedure for providing access to
8 or disclosure of it.

9
10 (8) The court may issue protective orders to accompany authorized disclosure,
11 discovery, or access to the juvenile case file of a living child.

12
13 **(d) Release of a living child's case file information for research (§ 872.12(a)(2))**

14
15 The court may authorize a chief probation officer to access and provide data
16 contained in the juvenile delinquency case files of a living child and related
17 juvenile records in the possession of the probation department for the purpose of
18 data sharing or conducting or facilitating research on juvenile justice populations,
19 practices, policies, or trends if the court finds the following:

20
21 (1) The research, evaluation, or study includes a sound method for the
22 appropriate protection of the confidentiality of ~~an~~ a living individual whose
23 juvenile delinquency case file is accessed for this purpose. In considering
24 whether a method is sound, the court must have information on:

25
26 (A) The names and qualifications of any nonprobation personnel who will
27 have access to personally identifying information as defined in Civil
28 Code section 1798.79.8(b);

29
30 (B) Procedures to mask personally identifying information that is shared
31 electronically; and

32
33 (C) Data security protocols to ensure that access to the information is
34 limited to those people authorized by the court.

35
36 (2) No further release, dissemination, or publication of personally identifying
37 information by the probation department or a program evaluator, researcher,
38 or research organization that is retained by the probation department will take
39 place for research or evaluation purposes.

40
41 (3) The disclosure requirements of section 10850 are met if any dependency
42 information in a delinquency file may be disclosed.

43

1 (4) A date for destruction of records containing personally identifying
2 information in the possession of nonprobation department personnel has been
3 set to prevent inappropriate disclosure of the records.
4

5 If the information is being released for human subject research as defined in 45
6 Code of Federal Regulations part 46, the probation department must provide notice
7 to the office of the public defender 30 days before the court authorizes the release
8 of the information so that the office has an opportunity to file an objection to the
9 release with the court. If such an objection is filed within the 30-day period the
10 court must set a hearing on the objection within 30 days of the filing of the
11 objection to consider the objection and make a determination on whether and how
12 release of information should be accomplished. Upon receiving authorization, but
13 ~~prior to~~ before the release of information, the probation department must enter into
14 a formal agreement with the entity or entities conducting the research that specifies
15 what may and may not be done with the information disclosed.
16

17 **(e) Reports of law enforcement agencies (§ 828)**
18

19 Except as authorized under section 828, all others seeking to inspect or obtain
20 information gathered and retained by a law enforcement agency regarding the
21 taking of a living child into custody must petition the juvenile court for
22 authorization using *Petition to Obtain Report of Law Enforcement Agency* (form
23 JV-575).
24
25

26 **Rule 5.553. Procedure for requesting a deceased child's juvenile case file (§§**
27 **827(a)(2), 16502.5)**
28

29 **(a) Petition for requesting a deceased child's juvenile case file**
30

31 The juvenile case file of a deceased child may be disclosed under sections
32 827(a)(2) and 16502.5. They may not be obtained by civil or criminal subpoena.
33 Every person or agency seeking to inspect or obtain the juvenile case file of a
34 deceased child who is not otherwise entitled to inspect records under sections
35 827(a)(1) or 16502.5 must petition the presiding judge of the juvenile court for
36 authorization using *Petition Requesting Juvenile Case File* (form JV-570). When
37 the juvenile case file of a deceased child is sought, the court must proceed as
38 follows:
39

- 40 (1) Under section 827(a)(2) if the request is made by a member of the public; or
41
42 (2) Under section 16502.5 if the request is made by a county board of
43 supervisors.

1
2 **(b) Notice of petition requesting a deceased child’s juvenile case file**

3
4 (1) At least 10 days before the petition is submitted to the court, the petitioner
5 must personally or by first-class mail serve *Petition Requesting Juvenile Case*
6 *File* (form JV-570), *Notice of Petition Requesting Juvenile Case File* (form
7 JV-571), and a blank copy of *Objection to Release of Juvenile Case File*
8 (form JV-572) on the following:

9
10 (A) The county counsel, city attorney, or any other attorney representing the
11 petitioning agency in a dependency action if the deceased child’s
12 petition was filed under section 300;

13
14 (B) The custodian of records of the agency in possession of the requested
15 records;

16
17 (C) The attorney of record for the deceased child; and

18
19 (D) Any surviving adult sibling, any surviving child or sibling who is 10
20 years of age or older, and the guardian, tribe, and legal representative
21 for any surviving child, sibling, or nonminor dependent whose
22 information is directly or indirectly included in the deceased child’s
23 juvenile case file or who may be identified by information in the
24 deceased child’s juvenile case file.

25
26 (2) The petitioner must complete *Proof of Service—Petition Requesting Juvenile*
27 *Case File* (form JV-569) and file it with the court.

28
29 (3) If the petitioner or the petitioner’s counsel does not know or cannot
30 reasonably determine the identity or address of any of the parties in (b)(1)
31 above, the custodian of records must within 10 days of receipt of the petition:

32
33 (A) Serve personally or by first-class mail to the last known address a copy
34 of *Petition Requesting Juvenile Case File* (JV-570), *Notice of Petition*
35 *Requesting Juvenile Case File* (JV-571); and

36
37 (B) Complete *Proof of Service—Petition Requesting Juvenile Case File*
38 (form JV-569) and file it with the court.

39
40 (4) Within 10 days of receipt of the petition, the custodian of records must also
41 serve *Petition Requesting Juvenile Case File* (form JV-570), *Notice of*
42 *Petition Requesting Juvenile Case File* (form JV-571), and a blank copy of

1 Input on Release of Juvenile Case File (form JV-576) on the following
2 parties:

3
4 (A) The district attorney if the deceased child's petition was filed under
5 section 601 or 602;

6
7 (B) The parents of the deceased child if:

8
9 (i) The deceased child died under 18 years of age; or

10
11 (ii) The deceased child's petition was filed under section 300;

12
13 (C) The guardians of the deceased child if:

14
15 (i) The deceased child died under 18 years of age; or

16
17 (ii) The deceased child's petition was filed under section 300;

18
19 (D) The probation department or child welfare agency handling the
20 deceased child's case, or both, if applicable;

21
22 (E) The deceased Indian child's tribe; and

23
24 (F) The deceased child's CASA volunteer.

25
26 **(c) Procedure for requesting a deceased child's juvenile case file**

27
28 (1) If a served party objects to the petition requesting a deceased child's juvenile
29 case file, the objecting party must file its objection or input form and serve
30 the petitioning party no later than 15 calendar days after the service of the
31 petition. The petitioning party must file a reply within 10 calendar days.

32
33 (2) Whether or not the court holds a hearing, if the court determines that there
34 may be information or documents in the records sought to which the
35 petitioner may be entitled, the juvenile court judicial officer must conduct an
36 in camera review of the deceased child's juvenile case file and any objections
37 or input forms and assume that all legal claims of privilege are asserted.

38
39 (3) If an objection is filed, the juvenile court must set the matter for hearing no
40 more than 60 calendar days from the date the petition is served on the
41 custodian of records. The court must render its decision within 30 days of the
42 hearing. If an objection is not filed to the petition, the court must review the

1 petition and any input filed and issue its decision within 10 calendar days of
2 the final day for filing an objection.

3
4 (4) The matter must be decided solely on the basis of the petition and supporting
5 exhibits or declarations, if any, the objections and input forms and any
6 supporting exhibits or declarations, if any, and the reply and any supporting
7 declarations or exhibits thereto, and argument at hearing. The court may,
8 solely on its own motion, order the appearance of witnesses.

9
10 (5) A presumption exists in favor of the release of documents when a child is
11 deceased unless statutory reasons for confidentiality are shown to exist. The
12 presiding judge of the juvenile court may issue an order prohibiting or
13 limiting access to the juvenile case file or any portion thereof of a deceased
14 child only upon a preponderance of evidence that release of the juvenile case
15 file of the deceased child or any portion thereof is detrimental to the safety,
16 protection, or physical or emotional well-being of another surviving child,
17 sibling, or nonminor dependent who is directly or indirectly connected to the
18 juvenile case that is the subject of the petition. No weighing or balancing of
19 interests other than those of a surviving child, sibling, or nonminor dependent
20 is permitted.

21
22 (6) If, after in camera review and review of any objections or input forms, the
23 court determines that all or a portion of the juvenile case file of a deceased
24 child may be disclosed, the court must make appropriate orders specifying
25 the portions of the juvenile case file to be disclosed to the petitioner and the
26 public, and the procedure for providing access to and disclosure of it.

27
28 (7) Any information relating to another surviving child, sibling or nonminor
29 dependent, or that could identify another surviving child, sibling, or
30 nonminor dependent, except for information about the deceased, must be
31 redacted from the juvenile case file before release, unless a specific order is
32 made by the juvenile court to the contrary.

33

Proof of Service—Petition Requesting Juvenile Case File

Clerk stamps date here when form is filed.

DRAFT Not approved by the Judicial Council JV-569.v3.020724.am

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known.

Case Number:

1 Your name: Relationship to child (if any): Street address: City: State: Zip: Telephone number: Lawyer (if any) (name, address, telephone numbers, and State Bar number):

- 2 I was not able to provide notice of this petition to the following because I did not know their names or addresses. If this is a request for the case file of a living child, the clerk must serve a copy of the petition. If this is a request for the case file of a deceased child, the custodian of records must serve a copy of the petition. a. County counsel or other attorney representing the child welfare agency if petition filed under section 300 b. District attorney if petition filed under section 601 or 602 c. Child d. Attorney of record for the child e. Child's parent f. Child's legal guardian g. Probation department if petition filed under section 601 or 602 h. Child welfare agency/custodian of records if petition filed under section 300 i. Child's identified Indian tribe j. Child's CASA volunteer k. Any surviving child, sibling, or non-minor dependent who is directly or indirectly connected to, or may be identified by, information in the juvenile case that is the subject of the petition.

3 If you checked box 2a, 2b, 2g, or 2h, describe the efforts made to locate those addresses and explain why you are unable to locate the addresses:

4 Copies of Petition Requesting Juvenile Case File (JV-570), Notice of Petition Requesting Juvenile Case File (JV-571), and a blank Objection to Release of Juvenile Case File (JV-572) have been served personally or placed in a sealed envelope with postage paid and deposited in the United States mail addressed to the following: a. County counsel or other attorney representing the child welfare agency if petition filed under section 300 (name and address): Date mailed: or Personally served on (date):



Your name: _____

4 b. District attorney if petition filed under section 601 or 602 (name and address): _____

Date mailed: _____ or Personally served on (date): _____

c. Child (name and address): _____

Date mailed: _____ or Personally served on (date): _____

d. Attorney of record for the child (name and address): _____

Date mailed: _____ or Personally served on (date): _____

e. Child's parent (name and address): _____

Date mailed: _____ or Personally served on (date): _____

f. Child's parent (name and address): _____

Date mailed: _____ or Personally served on (date): _____

g. Child's legal guardian (name and address): _____

Date mailed: _____ or Personally served on (date): _____

h. Probation department if petition filed under section 601 or 602 (name and address): _____

Date mailed: _____ or Personally served on (date): _____



Case Number: _____

Your name: _____

4 i. Child welfare agency/custodian of records if petition filed under section 300 (name and address):

Date mailed: _____ or Personally served on (date): _____

j. The Indian child's tribal representative (name and address): _____

Date mailed: _____ or Personally served on (date): _____

k. The child's CASA volunteer (name and address): _____

Date mailed: _____ or Personally served on (date): _____

5 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I may be guilty of a crime.

Date:

Type or print your name

▲
Sign your name

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-570.v2.020724.am

If you are requesting a court order to obtain access to the juvenile case file of a child who is alive, fill out all items on this form, and file it with the juvenile court. You must also fill out and file Proof of Service—Petition Requesting Juvenile Case File (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

- a. Fill out items 1–6 and 8 on this form and file it with the juvenile court. You must then provide a copy of this form to the custodian of records of the county child welfare agency, who will then provide notice of this petition. **Or**
- b. Do not complete the form, and instead request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 10850.4.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number, if known:

Case Number:

① Your name: _____
 Relationship to child (if any): _____
 Street address: _____
 City: _____ State: _____ Zip: _____
 Telephone number: _____
 Email: _____
 Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

② Name of child: _____

③ Child’s date of birth (if known): _____

④ a. A petition regarding the child in ② has been filed under
 Welfare and Institutions Code section 300
 Welfare and Institutions Code section 601
 Welfare and Institutions Code section 602 or

b. I believe the child in ② died as a result of abuse or neglect. Approximate date of death: _____

⑤ The records I want are: (Describe in detail. Attach more pages if you need more space. If you are involved in a pending proceeding in an appellate court or you are preparing to participate in such a proceeding, you should describe here the transcripts, reports, and any other evidence considered by the juvenile court at hearings related to the subject of the appeal or writ proceeding. For example, you should describe a report by providing its title (such as “status review report,” “jurisdiction/disposition report,” or “CASA report”) and the date of the hearing when the document was considered.)

Continued on Attachment 5.

Your name: _____

Case Number: _____

- 6 The reasons for this petition are:
- a. Civil court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - b. Criminal court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - c. Juvenile court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - d. Family law court case pending in *(name of county)*: _____
Case number: _____ Hearing date: _____
 - e. Writ or appeal case pending in *(name of district)*: _____
Case number *(if available)*: _____
Hearing dates related to the juvenile court order being challenged or to be challenged on appeal or by writ:

 - f. Other *(specify)*: _____
Case number: _____ Hearing date: _____
 - g. Presumptive public right of access to the file of a deceased child.

7 I need the records of a living child because *(describe in detail; attach more pages if you need more space)*:

Continued on Attachment 7.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date:

Type or print your name

Sign your name

Note: You must provide a copy of this completed form to all interested parties if you know their names and addresses.

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-571.v2.020724.am**

**RE: Release of Juvenile Case File and Right to File
an Objection**

*For a living child, you must provide notice to all those listed in item 2 on Proof
of Service—Petition Requesting Juvenile Case File (form JV-569).*

TO (names):

Fill in court name and street address:

Superior Court of California, County of

① Child's name: _____

② Information relating to the child named in item ① is being sought by
(name): _____

Court fills in case number when form is filed.

Case Number:

③ The requested information is described in the attached
Petition Requesting Juvenile Case File (form JV-570).

④ If you object to the release of these records and information, you must fill out *Objection to Release of Juvenile Case
File* (form JV-572) and return it to the court listed at the address above within 10 days of the date you received this
notice.

Date:

Type or print your name



Sign your name

Warning: If you do not object, the court may grant access to the child's case file.

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council
JV-572.v2.020724.am

*Objections to the release of information and records described in the attached Petition **Requesting** Juvenile Case File (form JV-570) must be filed with the juvenile court.*

1 Name of child: _____

2 My relationship to the child, if any, is: _____

3 I object to the release of information and records relating to the child named in item **1**

4 I do not want the juvenile court to release the records because *(describe in detail, attach additional pages if necessary)*:

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

Date:

Type or print your name



Sign your name

Warning: If you do not object, the court may grant access to the child’s case file.

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-573.v3.031824.jh**

The Court finds and orders:

Orders relating to records of living children:

- ① The child is alive and the request is denied.
 - a. Petitioner has not shown good cause for the release of the requested records.
 - b. Petitioner has not met the notice requirements of rule 5.552(c) of the California Rules of Court.
 - c. Request for records is overbroad or records sought are insufficiently identified.
 - d. Other:

- ② The child is alive and the court sets a hearing on the request. Applicant has shown good cause for release of the juvenile case file, but the court must balance the interests of the applicant, the child, other parties to the juvenile court proceedings, and the public. Clerk to send notice under rule 5.552 of the California Rules of Court.
Date of hearing: _____
Time of hearing: _____
Location: _____

- ③ The child is alive and the court will conduct a review of the juvenile case file and any filed objections.

Orders relating to records of deceased children:

- ④ The child is deceased, an objection to the request has been filed, and the court sets a hearing on the request within 60 calendar days from the date the petition was served on the custodian of records.
Date of hearing: _____
Time of hearing: _____
Location: _____

- ⑤ The child is deceased and the court will conduct a review of the juvenile case file without a hearing because no objections were filed.

Additional orders:

- ⑥ Other:

Date: _____

Judicial Officer

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Court fills in case number when form is filed.

Case Number:

**Order After Judicial Review on
Petition Requesting Juvenile
Case File**

Clerk stamps date here when form is filed.

**DRAFT
Not approved by
the Judicial Council
JV-574.v4.031824.jh**

① Name of petitioner: _____

The court finds and orders:

Orders relating to records of living children:

② After a review of the juvenile case file of a living child and any filed objections and a noticed hearing, the court denies the request.

Reason(s) for denial:

- a. Access is not in the child’s best interests.
- b. The need for access does not outweigh the privacy rights of the child and the policy considerations favoring confidentiality of the juvenile case file.
- c. Petitioner has not shown by a preponderance of the evidence that the records requested are necessary and have substantial relevance to the legitimate need of the petitioner.
- d. There are no responsive records.
- e. Other: _____

Fill in court name and street address:

Superior Court of California, County of

Fill in child's name and date of birth:

Child's Name:

Date of Birth:

Court fills in case number when form is filed.

Case Number:

③ After a review of the juvenile case file of a living child and any filed objections and a noticed hearing, the court grants the request. The petitioner has shown by a preponderance of the evidence that access to records is necessary and that records have substantial relevance to the legitimate needs of the petitioner. The court has balanced these needs with the child’s best interest. The court finds that the need for access outweighs the policy considerations favoring confidentiality of juvenile records.

a. The following records may be disclosed: with redactions

b. The procedure for providing access is:

c. See attached.



Case Number: _____

Your name: _____

- 4 a. Petitioner may not disseminate the information to anyone who is not specified in Welfare and Institutions Code section 827 or 827.10.
- b. Petitioner may disseminate the disclosed records listed in item 3a only to: _____
 as redacted subject to protective order additional orders attached

- 5 Disclosure subject to protective order (*list orders*): _____

Orders relating to records of deceased children:

- 6 This child is deceased, and the request is granted.
 - a. The court has read and considered the following:

 - b. There is a presumption under Welfare and Institutions Code section 827(a)(2)(B) in favor of the release of the documents unless a statutory reason for confidentiality is shown to exist. The court has balanced only the interests of the surviving children, siblings, and nonminor dependents who may be named in the file with the deceased child.
 - c. The following records may be disclosed: with redactions

 - d. The procedure for providing access is:

 - e. Any information that relates to another child or could identify another child, except for information about the deceased, must be redacted.
 - f. See attached.



Case Number:

Your name: _____

- 7 The child is deceased and the request is denied. The court finds by a preponderance of the evidence that access to the juvenile case file or of any portion of it is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the request.

Additional orders:

- 8 Other:

- 9 See attached.

Date:

Judicial Officer

**Input on Release of Deceased
Child's Juvenile Case File***Clerk stamps date here when form is filed.***DRAFT
Not approved by
the Judicial Council
JV-576.v2.020724.am**

Use this form if you do not agree with the release of a deceased child's juvenile case file. If the petitioner is asking for the court to approve the release of the deceased child's juvenile case file without a hearing, you must file this form within 15 calendar days of service of the petition requesting the juvenile case file. **The court may approve the release of the deceased child's juvenile case file without a hearing even if you file this form within 15 calendar days of service of the petition.** If you have a lawyer, talk to your lawyer right away. You can also use this form if you want to give any input about the release of the deceased child's juvenile case file.

*Fill in court name and street address:***Superior Court of California, County of***Fill in child's/nonminor's name and date of birth:***Child's/Nonminor's name:****Child's/Nonminor's date of birth:***Court fills in case number when form is filed.***Case Number:****1 Your contact information (if confidential, use form JV-287):**

- a. Name: _____
 b. Address: _____
 c. City/State/Zip: _____
 d. Phone: _____
 e. Email: _____

2 Your relationship to the deceased child or nonminor dependent:

- a. Parent or legal guardian of the deceased child or nonminor dependent
 b. Indian custodian for the deceased child or nonminor dependent
 c. Lawyer for parent, legal guardian, or Indian custodian of the deceased child or nonminor dependent
 d. Representative of Indian tribe of the deceased child or nonminor dependent
 e. The district attorney, if the deceased child or nonminor dependent was a ward of the juvenile court
 f. The probation department, child welfare agency, or CASA volunteer handling the deceased child's or nonminor dependent's case
 g. Other (give relationship): _____

3 Date when the child or nonminor dependent died, if you know: _____**4 Did you receive a copy of the petition requesting juvenile case file explaining the reasons for release?**

- Yes (date you received petition): _____
 No

5 Why are you completing this form? (check one):

- I do not agree to the release of the deceased child's or nonminor dependent's juvenile case file.
 I want to provide my input on the release of the deceased child's or nonminor dependent's juvenile case file.



