

AMENDMENT TO THE CALIFORNIA RULES OF COURT
Adopted by the Judicial Council on May 12, 2023, effective September 1, 2023

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27

1 **Rule 1.4. Contents of the rules**

2
3 **(a) The titles**

4
5 The California Rules of Court includes the following titles:

6
7 (1)–(6) * * *

8
9 (7) Title 7. Probate and Mental Health Rules

10
11 (8)–(10) * * *

12
13 *(Subd (a) amended effective September 1, 2023.)*

14
15 **(b)–(d) * * ***

16
17 *Rule 1.4 amended effective September 1, 2023; adopted effective January 1, 2007; previously*
18 *amended effective January 1, 2008, August 14, 2009, January 1, 2013, and February 26, 2013.*

19
20
21 **Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707**

22
23 **(a) Burden of proof (§ 707)**

24
25 In a transfer of jurisdiction hearing under section 707, the burden of proving that
26 there should be a transfer of jurisdiction to criminal court jurisdiction is on the
27 petitioner, by a ~~preponderance of the evidence~~ clear and convincing evidence.

28
29 *(Subd (a) amended effective September 1, 2023; previously amended effective January 1,*
30 *1996, January 1, 2001, July 1, 2002, and May 22, 2017.)*

31
32 **(b) Criteria to consider (§ 707)**

33
34 Following receipt of the probation officer’s report and any other relevant evidence,
35 the court may order that the youth be transferred to the jurisdiction of the criminal
36 court if the court finds by clear and convincing evidence each of the following:

- 37
38 (1) The youth was 16 years or older at the time of any alleged felony offense, or
39 the youth was 14 or 15 years of age at the time of an alleged felony offense
40 listed in section 707(b) and was not apprehended prior to the end of juvenile
41 court jurisdiction;

1 (2) The youth should be transferred to the jurisdiction of the criminal court based
2 on an evaluation of all the criteria in section 707(a)(3)(A)–(E) as provided in
3 that section; and The court must state on the record the basis for its decision,
4 including how it weighed the evidence and identifying the specific factors on
5 which the court relied to reach its decision.

6
7 (3) The youth is not amenable to rehabilitation while under the jurisdiction of the
8 juvenile court.

9
10 *Subd (b) amended effective September 1, 2023; adopted as subd (b); previously amended*
11 *and relettered as subd (c) effective January 1, 1996; previously amended and relettered*
12 *effective January 1, 2001; previously amended effective January 1, 2007, and May 22,*
13 *2017, January 1, 2021, and January 1, 2023.)*

14
15 **(c) Basis for order of transfer**

16
17 If the court orders a transfer of jurisdiction to the criminal court, the court must
18 recite the basis for its decision in an order entered on the minutes. The court must
19 state on the record the basis for its decision, including how it weighed the evidence
20 and identifying the specific factors on which the court relied to reach its decision.
21 This statement must include the reasons supporting the court’s finding that the
22 minor is not amenable to rehabilitation while under the jurisdiction of the juvenile
23 court.

24
25 *(Subd (c) amended effective September 1, 2023; adopted as subd (c); previously amended*
26 *and relettered as subd (d) effective January 1, 1996; amended and relettered effective*
27 *January 1, 2001; previously amended effective July 1, 2002, January 1, 2007, and May 22,*
28 *2017.)*

29
30
31 **(d)–(h) * * ***

32
33 *Rule 5.770 amended effective September 1, 2023; adopted as rule 1482 effective January 1, 1991;*
34 *previously amended effective January 1, 1996, January 1, 2001, July 1, 2002, May 22, 2017,*
35 *January 1, 2021, and January 1, 2023; previously amended and renumbered effective January 1,*
36 *2007.*

37
38 **Advisory Committee Comment**

39
40 **Subdivision (b).** This subdivision reflects changes to section 707 as a result of the passage of
41 Senate Bill 382 (Lara; Stats. 2015, ch. 234); ~~and~~ Proposition 57, the Public Safety and
42 Rehabilitation Act of 2016; and Assembly Bill 2361 (Bonta, Mia; Stats. 2022, ch. 330). SB 382
43 was intended to clarify the factors for the juvenile court to consider when determining whether a

1 case should be transferred to criminal court by emphasizing the unique developmental
2 characteristics of children and their prior interactions with the juvenile justice system. Proposition
3 57 provided that its intent was to promote rehabilitation for juveniles and prevent them from
4 reoffending, and to ensure that a judge makes the determination that a youth should be tried in a
5 criminal court. Consistent with this intent, the committee urges juvenile courts—when evaluating
6 the statutory criteria to determine if transfer is appropriate—to look at the totality of the
7 circumstances, taking into account the specific statutory language guiding the court in its
8 consideration of the criteria.

9
10 ~~Under subdivision (b)(2), the court must state on the record the basis for its decision. The~~
11 ~~statement of decision must fully explain the court’s reasoning to allow for meaningful appellate~~
12 ~~review. See, e.g., *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009.~~

13
14 **Subdivision (c).** The court must state on the record the basis for its decision. The statement of
15 decision must fully explain the court’s reasoning to allow for meaningful appellate review. See,
16 e.g., *C.S. v. Superior Court* (2018) 29 Cal.App.5th 1009.

17
18 Although this rule and section 707 require the juvenile court to recite the basis for its decision
19 only when the transfer motion is granted, the advisory committee believes that juvenile courts
20 should, as a best practice, state the basis for their decisions on these motions in all cases so that
21 the parties have an adequate record from which to seek subsequent review.

22
23
24 **Title 7. Probate and Mental Health Rules**

25
26 **Division 1. Probate Rules**

27
28
29 **Rules 7.1.–7.1105. * * ***

30
31
32 **Division 2. Mental Health Rules**

33
34 **Chapter 1. [Reserved]**

35
36 **Chapter 2. CARE Act Rules**

37
38 **Article 1. Preliminary Provisions**

39
40
41 **Rule 7.2201. Title and purpose**

1 The rules in this chapter may be referred to as the CARE Act rules. These rules are
2 intended to implement the policies and provisions governing judicial proceedings under
3 the CARE Act.

4
5 *Rule 7.2201 adopted effective September 1, 2023.*

6
7 **Rule 7.2205. Definitions**

8
9 As used in this chapter, the terms defined in Welfare and Institutions Code section 5971
10 have the meaning stated in that section. In addition, as used in this chapter:

11
12 (1) “CARE Act” refers to the Community Assistance, Recovery, and Empowerment
13 Act, as codified at Welfare and Institutions Code sections 5970–5987.

14
15 (2) “Intensive treatment” is involuntary mental health treatment authorized under
16 section 5250.

17
18 (3) A “section” is a section of the Welfare and Institutions Code unless otherwise
19 specified.

20
21 *Rule 7.2205 adopted effective September 1, 2023.*

22
23 **Rule 7.2210. General provisions**

24
25 **(a) Local rules**

26
27 A superior court may, subject to the limits in the CARE Act and these rules, adopt
28 local rules to govern CARE Act proceedings.

29
30 **(b) Access to records (§ 5977.4(a))**

31
32 All documents filed and all evaluations, reports, and other documents submitted to
33 the court in CARE Act proceedings are confidential, notwithstanding disclosure of
34 their contents during a CARE Act hearing. No person other than the respondent, the
35 respondent’s counsel, the county behavioral health director or the director’s
36 designee, counsel for the director or the director’s designee, and, with the
37 respondent’s express consent given in writing or orally in court, the respondent’s
38 supporter may inspect the case records without a court order.

39
40 *Rule 7.2210 adopted effective September 1, 2023.*

41
42 **Article 2. Commencement of Proceedings**

1
2 **Rule 7.2221. Papers to be filed**

3
4 **(a) Petition packet (§ 5975)**

5
6 A petition to commence CARE Act proceedings must be made on *Petition to*
7 *Commence CARE Act Proceedings* (form CARE-100). The petition must include
8 either:

- 9
10 (1) A completed *Mental Health Declaration—CARE Act Proceedings* (form
11 CARE-101); or
12
13 (2) The evidence described in section 5975(d)(2).

14
15 **(b) Acceptance of papers for filing**

16
17 On receipt of a petition, the clerk must file the petition packet, assign a case
18 number, and place the packet in a confidential file.

19
20 *Rule 7.2221 adopted effective September 1, 2023.*

21
22 **Rule 7.2223. Venue and transfer (§ 5973)**

23
24 **(a) Filing**

25
26 A petition to commence CARE Act proceedings may be filed in the superior court
27 of:

- 28
29 (1) The county where the respondent resides at the time of filing;
30
31 (2) The county where the respondent is found at the time of filing; or
32
33 (3) A county where the respondent is a defendant or respondent in a pending
34 criminal or civil action or proceeding.

35
36 **(b) Transfer**

37
38 If the court orders the proceeding transferred to the superior court of the
39 respondent's county of residence, the courts must proceed as follows:

- 40
41 (1) The clerk of the transferring court must mail notice and a copy of the order
42 to:

- 1 (A) The petitioner and petitioner’s counsel, if any;
2
3 (B) A former petitioner to whom the court has assigned notice rights under
4 section 5977(b)(7)(B)(ii), if any;
5
6 (C) The respondent, the respondent’s counsel, if any, and, with the
7 respondent’s express consent given in writing or orally in court, the
8 respondent’s supporter, if any;
9
10 (D) The county behavioral health agency of the county in which the petition
11 was filed and the agency’s counsel, if the agency is not the petitioner;
12
13 (E) The county agency preparing a report ordered under section
14 5977(a)(3)(B) and the agency’s counsel; and
15
16 (F) The county behavioral health agency in the respondent’s county of
17 residence and the agency’s counsel.
18
19 (2) The clerk of the transferring court must transmit to the clerk of the receiving
20 court a certified copy of the order and all papers on file in the proceeding.
21
22 (3) When a court receives the case file of a transferred proceeding, the receiving
23 court must send written notification of receipt to the transferring court.
24
25 (4) If the transferring court has not received a notification of receipt within 60
26 days of the transfer order, it must make a reasonable inquiry into the status of
27 the transferred proceeding.
28

29 *Rule 7.2223 adopted effective September 1, 2023.*
30

31 **Rule 7.2225. Petitioner (§§ 5974, 5978)**
32

33 **(a) Persons who may file petition**
34

35 A petition to commence proceedings under the CARE Act may be filed by any of
36 the persons identified in section 5974 or, in the circumstances specified therein,
37 section 5978.
38

39 **(b) Petitioner on referral under Penal Code section 1370.01**
40

41 On referral by a court under Penal Code section 1370.01, an agency designated by
42 the county will be the petitioner.
43

1
2 *Rule 7.2225 adopted effective September 1, 2023.*

3
4
5 **Rule 7.2230. Counsel for respondent (§§ 5976(c), 5977(a)(3)(A), (a)(5)(C) & (b)(1))**

6
7 **(a) Appointment**

8
9 If the court finds that the petitioner has made a prima facie showing that the
10 respondent is or may be a person described by section 5972, the court must, in
11 accordance with procedures established by local rule:

- 12
13 (1) Appoint a qualified legal services project as counsel to represent the
14 respondent; or
15
16 (2) If no qualified legal services project has agreed to accept CARE Act
17 appointments from the court, appoint a public defender or an attorney acting
18 in that capacity to represent the respondent.

19
20 **(b) Copy of petition**

21
22 On appointment, the court must provide a copy of the petition packet to appointed
23 counsel.

24
25 **(c) Substitution (§ 5977(b)(1))**

- 26
27 (1) The court may relieve appointed counsel:
28
29 (A) At the request of counsel or the respondent, on substitution of the
30 respondent's own chosen counsel or appointment of substitute counsel;
31 or
32
33 (B) For cause, on appointment of substitute counsel.
34
35 (2) The respondent must make arrangements for the compensation, if any, of
36 chosen counsel.

37
38 *Rule 7.2230 adopted effective September 1, 2023.*

39
40
41 **Article 3. Notice and Joinder**

1 **Rule 7.2235. Notice of proceedings (§§ 5977–5977.3, 5979)**

2
3 **(a) Notice of order for report to augment petition (§ 5977(a)(3) & (4))**

- 4
5 (1) Before engaging the respondent and preparing a report ordered under section
6 5977(a)(3)(B), the county agency ordered to file the report and serve notice
7 of that order must give written notice to the respondent by serving the
8 respondent personally or, if personal service is not practicable, by any
9 method reasonably calculated to give the respondent actual notice. Proof of
10 service on the respondent by any method other than personal service must
11 include an explanation why personal service is impracticable and why the
12 alternative method of service used is reasonably calculated to give the
13 respondent actual notice.
- 14
15 (2) The county agency must give notice to the respondent’s counsel and the
16 petitioner as provided in (d).
- 17
18 (3) Notice must be given on *Notice of Order for CARE Act Report* (form CARE-
19 106) and must include a copy of *Order for CARE Act Report* (form CARE-
20 105) issued by the court.
- 21
22 (4) Notice to the respondent and the respondent’s counsel must also include a
23 copy of the petition packet filed to begin the proceedings and *Information for*
24 *Respondents—About the CARE Act* (form CARE-060-INFO).
- 25
26 (5) If the court grants the county agency additional time to engage the respondent
27 in voluntary treatment and services before filing the report, the county agency
28 must, within five calendar days of the order, serve written notice of the
29 extended report deadline on the respondent, the respondent’s counsel, and the
30 petitioner on form CARE-106 as provided in (d).

31
32 **(b) Notice of initial appearance (§ 5977(a)(3)(A), (a)(5)(C))**

- 33
34 (1) The county must give at least five court days’ notice of the date, time, and
35 location of the initial appearance under section 5977(b) to the respondent and
36 the respondent’s counsel, the petitioner and the petitioner’s counsel unless the
37 county behavioral health agency is the petitioner, and, if the respondent does
38 not reside in the county where the petition is filed, the county behavioral
39 health agency in the respondent’s county of residence and the agency’s
40 counsel.
- 41
42 (2) Notice must be given on *Notice of Initial Appearance—CARE Act*
43 *Proceedings* (form CARE-110).

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(3) Notice to respondent

(A) Notice must be served personally on the respondent or, if personal service is not practicable, by any method reasonably calculated to give the respondent actual notice. Proof of service on the respondent by any method other than personal service must include an explanation why personal service is impracticable and why the alternative method of service used is reasonably calculated to give the respondent actual notice.

(B) Notice to the respondent must include copies of the following:

- (i) The petition packet filed to begin the proceedings;
- (ii) Any report ordered and filed under section 5977(a)(3);
- (iii) Notice of Respondent’s Rights—CARE Act Proceedings (form CARE-113); and
- (iv) Information for Respondents—About the CARE Act (form CARE-060-INFO).

(4) Notice to respondent’s counsel

(A) Notice must be served on the respondent’s counsel by any method provided in (d).

(B) Notice to the respondent’s counsel must include copies of the following:

- (i) The petition packet filed to begin the proceedings; and
- (ii) Any report ordered under section 5977(a)(3).

(5) Notice to other persons

Notice must be served on all other persons entitled to receive notice by any method provided in (d).

(c) Notice of other hearings (§§ 5977–5977.3, 5979)

- 1 (1) The county must give at least five court days’ notice of any hearing after the
2 initial appearance to the respondent, the respondent’s counsel, any local
3 government entity the court has joined as a party to the proceedings, and,
4 with the respondent’s express consent given in writing or orally in court, the
5 respondent’s supporter.
6
7 (2) Notice must be given on *Notice of Hearing—CARE Act Proceedings* (form
8 CARE-115) and, except as provided in (3), served as provided in (d).
9
10 (3) Notice to the respondent must be served personally or, if personal service is
11 not practicable, by any method reasonably calculated to give the respondent
12 actual notice and include a copy of *Notice of Respondent’s Rights—CARE*
13 *Act Proceedings* (form CARE-113). Proof of service on the respondent by
14 any method other than personal service must include an explanation why
15 personal service is impracticable and why the alternative method of service
16 used is reasonably calculated to give the respondent actual notice.
17
18 (4) Notice to the respondent and the respondent’s counsel of a clinical evaluation
19 hearing under section 5977.1(c) must include a copy of the evaluation
20 ordered under section 5977.1(b).
21
22 (5) Notice to the respondent and the respondent’s counsel of a status review
23 hearing under section 5977.2(a)(1) must include a copy of the report required
24 by that section.
25
26 (6) Notice to the respondent and the respondent’s counsel of a one-year status
27 hearing under section 5977.3(a)(1) must include a copy of the report required
28 by that section.
29

30 **(d) Method of service**

31
32 Unless personal service is required, any notice or other document required by this
33 rule to be served may be served as follows:
34

- 35 (1) Personally or by first-class mail, express mail, or overnight delivery on any
36 person;
37
38 (2) By fax transmission as provided in rule 2.306; or
39
40 (3) Electronically as provided in Code of Civil Procedure section 1010.6 and rule
41 2.251.
42

43 *Rule 7.2235 adopted effective September 1, 2023.*

1
2 **Rule 7.2240. Joinder of local government entity (§ 5977.1(d)(4))**

3
4 **(a) Order to show cause**

5
6 Before granting a motion or request to join as a party to the proceedings another
7 local government entity that would be required to provide a service or support
8 under a proposed CARE plan, the court must:

9
10 (1) Order the local government entity and all parties to show cause why the
11 entity should not be joined as a party to the CARE Act proceedings and
12 ordered to provide the service or support; and

13
14 (2) Set the hearing on the order to show cause no fewer than 15 calendar days
15 after the date of the order's issuance.

16
17 **(b) Manner of service**

18
19 The moving party must serve the order to show cause on the local government
20 entity in the manner of a summons as provided in Code of Civil Procedure sections
21 415.10 and 416.50.

22
23 *Rule 7.2240 adopted effective September 1, 2023.*

24
25 **Article 4. Accountability**

26
27
28 **Rule 7.2301. Order to show cause (§ 5979(b))**

29
30 When a presiding judge or the presiding judge's designee issues an order to show cause
31 why the county or other local government entity should not be fined for not complying
32 with court orders, as provided in section 5979(b)(2)(A), the clerk must serve the order to
33 show cause on the county or other local government entity and the parties and their
34 counsel no fewer than 15 calendar days before the date set for hearing.

35
36 *Rule 7.2301 adopted effective September 1, 2023.*

37
38 **Rule 7.2303. Participation in accountability hearings (§ 5979)**

39
40 The respondent and the respondent's counsel are entitled to be present at and participate
41 in all proceedings under section 5979(a) and (b).

42
43 *Rule 7.2303 adopted effective September 1, 2023.*

1 **Rule 8.278. Costs on appeal**

2
3 **(a) Award of costs**

- 4
- 5 (1) Except as provided in this rule or by statute, the party prevailing in the Court
- 6 of Appeal in a civil case other than a juvenile case is entitled to costs on
- 7 appeal.
- 8
- 9 (2) The prevailing party is the respondent if the Court of Appeal affirms the
- 10 judgment without modification or dismisses the appeal. The prevailing party
- 11 is the appellant if the court reverses the judgment in its entirety.
- 12
- 13 (3) If the Court of Appeal reverses the judgment in part or modifies it, or if there
- 14 is more than one notice of appeal, the opinion must specify the award or
- 15 denial of costs.
- 16
- 17 (4) In probate cases, the prevailing party must be awarded costs unless the Court
- 18 of Appeal orders otherwise, but the superior court must decide who will pay
- 19 the award.
- 20
- 21 (5) In the interests of justice, the Court of Appeal may also award or deny costs
- 22 as it deems proper.

23
24 *(Subd (a) was amended effective September 1, 2023)*

25
26 **(b)–(d) * * ***

27
28 *Rule 8.278 amended effective September 1, 2023; adopted effective January 1, 2008; previously*

29 *amended effective January 1, 2013, January 1, 2016, and January 1, 2018.*

30
31
32 **Advisory Committee Comment**

33
34 This rule is not intended to expand the categories of appeals subject to the award of costs. See

35 rule 8.493 for provisions addressing costs in writ proceedings.

36
37 **Subdivision (a).** The subdivision (a)(1) exception to the general rule of awarding costs to the

38 prevailing party for statutes that require further analysis or findings reflects the holding of *Pollock*

39 *v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 (regarding costs on appeal in an

40 action under the California Fair Employment and Housing Act) and the constitutional mandate

41 that rules of court “shall not be inconsistent with statute” (Cal. Const., art. VI, § 6(d)).

42
43 **Subdivision (c). * * ***

1
2 **Subdivision (d).** * * *

3
4
5 **Rule 8.891. Costs and sanctions in civil appeals**

6
7 **(a) Right to costs**

- 8
9 (1) Except as provided in this rule or by statute, the prevailing party in a civil
10 appeal is entitled to costs on appeal.
11
12 (2) The prevailing party is the respondent if the appellate division affirms the
13 judgment without modification or dismisses the appeal. The prevailing party
14 is the appellant if the appellate division reverses the judgment in its entirety.
15
16 (3) If the appellate division reverses the judgment in part or modifies it, or if
17 there is more than one notice of appeal, the appellate division must specify
18 the award or denial of costs in its decision.
19
20 (4) In the interests of justice, the appellate division may also award or deny costs
21 as it deems proper.
22

23 *(Subd (a) amended effective September 1, 2023.)*

24
25 **(b)–(e)** * * *

26
27 *Rule 8.891 amended effective September 1, 2023; adopted effective January 1, 2009; previously*
28 *amended effective January 1, 2011, and January 1, 2013.*
29
30

31 **Advisory Committee Comment**

32
33 **Subdivision (a).** The subdivision (a)(1) exception to the general rule of awarding costs to the
34 prevailing party for statutes that require further analysis or findings reflects the holding of *Pollock*
35 *v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 (regarding costs on appeal in an
36 action under the California Fair Employment and Housing Act) and the constitutional mandate
37 that rules of court “shall not be inconsistent with statute” (Cal. Const., art. VI, § 6(d)).
38

39 **Subdivision (d).** * * *