

Title	Juvenile Law: Affidavit Under Penalty of Perjury (revise form JV-210)
Summary	The proposed amendments to <i>Application to Commence Proceedings by Affidavit and Decision by Social Worker</i> (form JV-210) promote compliance with section 329 of the Welfare and Institutions Code and 2015.5 of the Code of Civil Procedure.
Source	<p>Family and Juvenile Law Advisory Committee</p> <p>Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs</p>
Staff	Melissa Ardaiz, Associate Attorney, 415-865-7567, melissa.ardaiz@jud.ca.gov
Discussion	<p>The Family and Juvenile Law Advisory Committee recommends revising <i>Application to Commence Proceedings by Affidavit and Decision by Social Worker</i> (form JV-210) to promote compliance with section 329 of the Welfare and Institutions Code and section 2015.5 of the Code of Civil Procedure and to ensure that form JV-210 qualifies as an affidavit.</p> <p>Current form JV-210 is intended to meet the requirements for an application to commence proceedings, as described in Welfare and Institutions Code section 329. Section 329 states that “[w]henever any person applies to the social worker to commence proceedings in the juvenile court, the application shall be <i>in the form of an affidavit</i> alleging that there was or is within the county, or residing therein, a child within the provisions of Section 300, and setting forth facts in support thereof” (emphasis added). Under section 2015.5 of the Code of Civil Procedure, when a matter is required to be supported or evidenced by affidavit, the affiant must certify that his or her declaration is “true under penalty of perjury, is subscribed by him or her, and … if executed at any place, within or without this state, states the date of execution and that it is so certified or declared under the laws of the State of California.”</p> <p>Current form JV-210 requires the person bringing the child to the attention of the social services agency to provide information supporting his or her allegation and belief that a child is at risk of abuse or neglect and should come within the jurisdiction of the juvenile court. The affiant must sign and date the declaration. Form JV-210 also requires the social worker to indicate, after considering</p>

the application, whether or not he or she intends to commence juvenile proceedings based on the allegations, and to sign and date the form, verifying that he or she is a social worker of the county in which the application was submitted and duly authorized to make such a decision.

At issue is whether current form JV-210 constitutes an affidavit under section 2015.5 given that the affiant is not signing the declaration under penalty of perjury. To ensure that form JV-210 qualifies as an affidavit, as required under section 329, the committee proposes adding language to the form stating that the affiant's declaration of information and belief that the child should come within the jurisdiction of the juvenile court is made "under penalty of perjury under the laws of the State of California."

Proposed revised form JV-210 is attached on pages 3–4.

Welfare and Institutions Code section 329 is attached on page 5.

Code of Civil Procedure section 2015.5 is attached on page 6.

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Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number if attorney, and mailing address):     	<b>FOR COURT USE ONLY</b>
TELEPHONE NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	Draft 3 04/15/09 mc Not approved by the Judicial Council
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
<b>APPLICATION TO COMMENCE PROCEEDINGS BY AFFIDAVIT AND DECISION BY SOCIAL WORKER (Welf. &amp; Inst. Code, § 329)</b>	CASE NUMBER:

**To the social worker or social services agency of (specify county):**

1. Applicant's name and address:
2. Applicant's relationship to child (specify):
3. Applicant on information and belief alleges that the child is at risk of abuse or neglect and should come within the jurisdiction of the court (*supply all information known*):
  - a. Child's name:
  - b. Age:
  - c. Date of birth:
  - d. Sex:
  - e. Mother's name:
  - f. Mother's address:
  - g. Father's name:
  - h. Father's address:
  - i. Other (*state name, address, and relationship to child*):
4. The child described in item 3 above
  - a.  resides within this county.
  - b.  was in this county at the time of the facts alleged below.
5. Facts in support (*State supporting facts concisely, include all known and relevant dates, times, names, and addresses. Attach separate pages as necessary*):

See attachment 5.

6. Applicant requests that the social worker or agency immediately commence proceedings in the juvenile court on behalf of this child
7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPLICANT)

CHILD'S NAME:	CASE NUMBER:
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**DECISION OF SOCIAL WORKER OR SOCIAL SERVICES AGENCY****8. After consideration of the application above, the SOCIAL WORKER HAS DECIDED**

- a.  to commence proceedings in juvenile court on these allegations.
- b.  not to commence proceedings in juvenile court on these allegations because (*specify*):

See attachment 8. Number of pages attached: \_\_\_\_\_

Date:

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(TYPE OR PRINT NAME)



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(SIGNATURE OF SOCIAL WORKER)

ADDRESS AND TELEPHONE NUMBER:

**§ 329. Application to commence proceedings; affidavit; investigation; notification of decision**

Whenever any person applies to the social worker to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a child within the provisions of Section 300, and setting forth facts in support thereof. The social worker shall immediately investigate as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. If the social worker does not take action under Section 330 and does not file a petition in the juvenile court within three weeks after the application, he or she shall endorse upon the affidavit of the applicant his or her decision not to proceed further and his or her reasons therefore and shall immediately notify the applicant of the action taken or the decision rendered by him or her under this section. The social worker shall retain the affidavit and his or her endorsement thereon for a period of 30 days after notifying the applicant.

## **§ 2015.5. Certification or declaration under penalty of perjury**

Whenever, under any law of this state or under any rule, regulation, order or requirement made pursuant to the law of this state, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may with like force and effect be supported, evidenced, established or proved by the unsworn statement, declaration, verification, or certificate, in writing of such person which recites that it is certified or declared by him or her to be true under penalty of perjury, is subscribed by him or her, and (1), if executed within this state, states the date and place of execution, or (2), if executed at any place, within or without this state, states the date of execution and that it is so certified or declared under the laws of the State of California. The certification or declaration may be in substantially the following form:

(a) If executed within this state:

“I certify (or declare) under penalty of perjury that the foregoing is true and correct”:

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(Date and Place)

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(Signature)

(b) If executed at any place, within or without this state:

“I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct”:

## **Item SPR09-40 Response Form**

**Title: Juvenile Law: Affidavit under Penalty of Perjury (revise form JV-210)**

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_  
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\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

- Commenting on behalf of an organization**

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/>

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

**DEADLINE FOR COMMENT:** 5:00 p.m., Wednesday, June 17, 2009

*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.*