

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR22-14

Title

Appellate Procedure and Juvenile Law:
Transfer of Jurisdiction to Criminal Court and
Appeal from Transfer Orders

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 8.417; amend
rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63,
8.404, 8.406, 8.409, and 8.412; and revise
forms JV-710 and JV-800

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by May 13,
2022

Proposed Effective Date

January 1, 2023

Contact

Christy Simons, 415-865-7694 |
christy.simons@jud.ca.gov

Tracy Kenny, 916-263-2838
tracy.kenny@jud.ca.gov

Executive Summary and Origin

In 2018 the Legislature passed Senate Bill 1391 (Lara; Stats. 2018, ch. 1012), which amended Welfare and Institutions Code section 707 to provide that a minor must be at least 16 years of age to be considered for transfer of jurisdiction to criminal court unless the individual for whom transfer is sought was 14 or 15 at the time of the offense, the offense is listed in section 707(b), and the individual was not apprehended until after the end of juvenile court jurisdiction. The Judicial Council took action to implement these age-related changes in the jurisdiction of the juvenile court in 2019, but revoked that action when a split of authority within the California Courts of Appeal arose as to whether these changes were enacted in a constitutional manner. That split was resolved by the California Supreme Court in 2021 in favor of the constitutionality of the legislation. Additionally, legislation was enacted in 2021 to provide an expedited review on the merits from an order granting a motion to transfer. The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee propose adopting a new rule of court, amending several other rules, and revising two forms pertaining to the transfer-of-jurisdiction process and juvenile appeals to reflect both legislative changes to the transfer statutes.

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 It is circulated for comment purposes only.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

On November 8, 2016, the people of the State of California enacted Proposition 57, the Public Safety and Rehabilitation Act of 2016, effective November 9, 2016. Proposition 57 amended existing law to require that the juvenile court consider a motion by the district attorney or other appropriate prosecuting officer to transfer the minor to the jurisdiction of the criminal court before a juvenile can be prosecuted in a criminal court. To that end, the proposition repealed Welfare and Institutions Code section 602(b),¹ which had provided that certain serious and violent felonies were to be prosecuted in criminal court, as well as section 707(d), which had authorized the district attorney to directly file an accusatory pleading involving certain minors in criminal court. In addition, the proposition eliminated a set of presumptions that applied in determining whether a case should be transferred and instead provided the court with broad discretion to determine whether the minor should be transferred to a court of criminal jurisdiction, taking into account numerous factors and criteria.

SB 1391 further amended these provisions to limit the transfer of cases involving 14 and 15 year olds to those in which the alleged offender is not apprehended until after reaching adulthood and the offense is one listed in section 707(b). On February 25, 2021, the California Supreme Court resolved a split of opinion within the Courts of Appeal and upheld the constitutionality of SB 1391 in *O.G. v. Superior Court*, 11 Cal.5th 82, making clear that the legislation’s age limitations on transfer of youth to criminal court jurisdiction were permissible amendments to Proposition 57.

In 2021, the Legislature enacted section 801 to provide a right to an immediate appeal for youth subject to an order for transfer of jurisdiction from juvenile court to criminal court provided that the notice of appeal is filed within 30 days of the transfer order.² That legislation requires the council to adopt rules of court to ensure that the youth is advised of their appellate rights, the record is promptly prepared and transmitted after a notice of appeal is filed, and adequate time requirements allow counsel and court personnel to comply with the objectives of the section. Subdivision (e) of section 801 states: “It is the intent of the Legislature that this section provides for an expedited review on the merits by the appellate court of an order transferring the minor from the juvenile court to a court of criminal jurisdiction.”

Prior Circulation

The Family and Juvenile Law Advisory Committee circulated a proposal for comment in 2019 to implement the provisions of SB 1391. The Judicial Council adopted a revised version of that proposal on September 24, 2019, with an effective date of January 2, 2020. The council then revoked that action on November 25, 2019, after the Court of Appeal, Second Appellate District, filed an opinion on September 30, 2019, finding that the provisions of SB 1391 were not consistent with the voters’ intent in enacting Proposition 57 and thus holding that the

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

² Assem. Bill 624 (Bauer-Kahan; Stats. 2021, ch. 195).

amendments to section 707 were an unconstitutional exercise of legislative authority.³ The proposal circulated here includes the changes approved by the council in 2019 with minor style revisions, as well as changes to implement section 801, the new appellate provisions on transfer.

The Proposal

To implement the new jurisdictional provisions of SB 1391, the transfer rules and form would be modified. To implement the appellate provisions of section 801, the committees propose adopting new rule 8.417 and amending rule 5.770 and several appellate rules.

Transfer rules 5.766, 5.768, and 5.770

The current rules of court governing the process for transfer of jurisdiction from juvenile court to criminal court provide that transfer can occur when the subject of the petition was 14 or 15 years old at the time the petition alleges they committed an offense listed in section 707(b) or is 16 years of age or older and is alleged to have committed a felony. These rules would be amended to provide that a transfer petition may be considered for an individual who was 14 or 15 years of age at the time of the offense and was not apprehended until after the end of juvenile court jurisdiction. The proposal also includes new language in rule 5.770(b) to incorporate the holding in *C.S. v. Superior Court*, 29 Cal.App.5th 1009 (2018) that a trial court judge considering a motion to transfer must make detailed findings and fully explain its reasoning for granting or denying the motion. In addition, the legislative changes to section 707 require that code references in the rules be updated to reflect the new structure of the statute.

Finally, all three rules are proposed to be amended to use the term “youth” instead of “child,” consistent with rule 5.502(46).

Transfer order form JV-710

Order to Transfer Juvenile to Criminal Court Jurisdiction (form JV-710), for optional use, would be revised to update item 3 to include the limitation on transferring individuals who were age 14 or 15 at the time of the offense to those who were apprehended after the end of juvenile court jurisdiction. Item 4 would be updated to renumber the statutory reference from 707(a)(2) to 707(a)(3), consistent with the changes enacted by SB 1391. In addition, the form is proposed to be revised to use the term “youth” instead of “child.”

Amendments to rule 5.770 to implement new appellate rights

Section 801 provides youth subject to an order transferring jurisdiction with the right to an immediate appeal if a notice of appeal is filed within 30 days of the transfer order and requires that the juvenile court grant a stay of the criminal court proceedings upon request of the youth if an appeal is filed. In addition, it requires the court to advise the youth of their appellate rights, the steps and time for taking an appeal, and the right to appointed counsel. Finally, it requires that the court prepare the record and transmit it to the Court of Appeal in a timely manner so that

³ *O.G. v. Superior Court* (2019) 40 Cal.App.5th 626.

the appeal can be heard expeditiously. The committees propose amending rule 5.770 to reflect these new requirements and provisions.

Juvenile Notice of Appeal Form (JV-800)

Notice of Appeal – Juvenile (form JV-800), for optional use, would be revised to allow it to be used for the appeal of orders transferring jurisdiction from the juvenile court to the criminal court. To accomplish this the form includes a new notice alerting appellants that they must file within 30 days of the order, as well as a new item 7(h) to indicate that the appeal is from a transfer order under section 707. The form was also revised to delete a generic other checkbox, and to convert the item for “other appealable orders relating to wardship,” to “other appealable orders relating to delinquency”. Because the form already has an item for “other appealable orders relating to dependency,” it should, as proposed, be usable for all appealable juvenile matters without requiring a nonspecific “other” item.

Appellate rules

New rule 8.417

To ensure that appeals from transfer orders are resolved expeditiously, the committees propose a new rule that would govern these proceedings. New rule 8.417 is modeled on rule 8.416, the rule governing fast-track dependency appeals. The new rule would require that the cover of the record on appeal be labeled to identify the appeal as entitled to preference and would specify the items to be included in the record. (Rule 8.417(b), (c).) Subdivision (d) would require the record to be prepared within 20 days and sent immediately. The rule would also contain requirements for augmenting and correcting the record, the time to file briefs, the showing a party must make to support a request for an extension of time, and the length of the grace period following a notice of failure to file a brief. (Rule 8.417(e), (f), (g), (h).) Finally, the rule would provide time periods for requesting and holding oral argument and submission if argument is waived.

Amended rules 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412

Section 801 provides for an appeal from an order granting transfer if the notice of appeal is filed within 30 days. This is different from the normal time of 60 days in juvenile appeals. Rule 8.406 would be amended to add the 30-day time limit for filing a notice of appeal from a transfer order. The proposed amendments specify when the 30-day time begins to run if the matter is heard by a referee not acting as a temporary judge and if an application for rehearing of an order of a referee not acting as a temporary judge is denied. The committees would like comments on whether these matters are heard by referees and whether rule 8.406(a)(4) should include these provisions.

The committees also propose adding an advisory committee comment to rule 8.404. The rule provides: “The court must not stay an order or judgment pending an appeal unless suitable provision is made for the maintenance, care, and custody of the child.” For clarification and to avoid any confusion with the rules in title 5, a new comment would read: “This rule does not apply to a court’s order under rule 5.770(e)(2) staying the criminal court proceedings during the pendency of an appeal of an order transferring the minor from juvenile court to a court of

criminal jurisdiction.” The committees would appreciate feedback on this proposed addition to the advisory committee comment to this rule.

The other rules included in this proposal, rules 8.50, 8.60, 8.63, 8.409, and 8.412, would be amended to add cross-references to new rule 8.417 to the text of the rule or to the advisory committee comments and to make minor style and punctuation changes.

Alternatives Considered

The Family and Juvenile Law Advisory Committee considered moving the prior transfer proposal forward without recirculating it for comment, but determined that it would be preferable, in light of new section 801, to amend these rules once and at the same time update the rules in title 5 to use the term “youth,” consistent with the committee’s current practice.

The Appellate Advisory Committee considered a narrow approach that would have involved amending only the rule regarding the time for filing a notice of appeal, rule 8.406. The committee concluded that a broader approach, including a new rule with expedited timing at several steps of the appeal, would better reflect the legislative intent that these appeals be determined as soon as reasonably practicable after the notice of appeal is filed.

The committees did not consider the alternative of proposing no rule amendments because section 801 creates a new right of appeal and requires the Judicial Council to adopt implementing rules.

Fiscal and Operational Impacts

The restrictions on transfers to criminal court for juvenile offenders ages 14 and 15 will result in the filing of fewer transfer petitions for these youth and, thus, fewer hearings on those petitions. These impacts are the result of legislative changes. Similarly, the new appellate rights in section 801 will likely result in more appeals being filed in the Courts of Appeal, also the result of the legislative change rather than the provisions of this proposal.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Is the new advisory committee comment to rule 8.404 regarding stays helpful?
- Does proposed new rule 8.417(c) appropriately specify the items to be included in the record on appeal?
- Do juvenile referees hear transfer motions in a capacity other than as a temporary judge such that the rules need to include timing for review of their orders by a superior court judge, or can those provisions be removed from the rules? (See rules 5.770(g) and 8.406(a).)

The advisory committees also seek 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 three 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 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, 8.412, and 8.417, at pages 7–18
2. Forms JV-710 and JV-800 at pages 19-21
3. Link A: Senate Bill 1391,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1391
4. Link B: Assembly Bill 624,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB624

Rule 8.417 of the California Rules of Court would be adopted, and rules 5.766, 5.768, 5.770, 8.50, 8.60, 8.63, 8.404, 8.406, 8.409, and 8.412 would be amended, effective January 1, 2023, to read:

1 **Rule 5.766. General provisions**

2
3 **(a) Hearing on transfer of jurisdiction to criminal court (§ 707)**

4
5 A child youth who is the subject of a petition under section 602 and who was 14 years or
6 older at the time of the alleged felony offense may be considered for prosecution under the
7 general law in a court of criminal jurisdiction. The district attorney or other appropriate
8 prosecuting officer may make a motion to transfer the child youth from juvenile court to a
9 court of criminal jurisdiction, in one of the following circumstances:

10
11 (1) The child individual was 14 or 15 years ~~or older~~ of age at the time of the alleged
12 offense listed in section 707(b) and was not apprehended before the end of juvenile
13 court jurisdiction.

14
15 (2) The child youth was 16 years or older at the time of the alleged felony offense.

16
17 **(b) * * ***

18
19 **(c) Prima facie showing**

20
21 On the child youth's motion, the court must determine whether a prima facie showing has
22 been made that the offense alleged is an offense that makes the child youth subject to
23 transfer as set forth in subdivision (a).

24
25 **(d) Time of transfer hearing—rules 5.774, 5.776**

26
27 The transfer of jurisdiction hearing must be held and the court must rule on the request to
28 transfer jurisdiction before the jurisdiction hearing begins. Absent a continuance under rule
29 5.776 or the child youth's waiver of the statutory time period to commence the jurisdiction
30 hearing, the jurisdiction hearing must begin within the time limits under rule 5.774.

31
32
33 **Rule 5.768. Report of probation officer**

34
35 **(a) Contents of report (§ 707)**

36
37 The probation officer must prepare and submit to the court a report on the behavioral
38 patterns and social history of the child youth being considered. The report must include
39 information relevant to the determination of whether the child youth should be retained
40 under the jurisdiction of the juvenile court or transferred to the jurisdiction of the criminal
41 court, including information regarding all of the criteria in section 707(a)~~(2)~~(3). The report

1 must also include any written or oral statement offered by the victim pursuant to section
2 656.2.

3
4 **(b) Recommendation of probation officer (§§ 281, 707)**

5
6 If the court, under section 281, orders the probation officer to include a recommendation,
7 the probation officer must make a recommendation to the court as to whether the ~~child~~
8 youth should be retained under the jurisdiction of the juvenile court or transferred to the
9 jurisdiction of the criminal court.

10
11 **(c) Copies furnished**

12
13 The probation officer's report on the behavioral patterns and social history of the ~~child~~
14 youth must be furnished to the ~~child~~ youth, the parent or guardian, and all counsel at least
15 two court days before commencement of the hearing on the motion. A continuance of at
16 least 24 hours must be granted on the request of any party who has not been furnished the
17 probation officer's report in accordance with this rule.

18
19
20 **Rule 5.770. Conduct of transfer of jurisdiction hearing under section 707**

21
22 **(a) * * ***

23
24 **(b) Criteria to consider (§ 707)**

25
26 Following receipt of the probation officer's report and any other relevant evidence, the
27 court may order that the ~~child~~ youth be transferred to the jurisdiction of the criminal court
28 if the court finds:

- 29
30 (1) The ~~child~~ youth was 16 years or older at the time of any alleged felony offense, or
31 the ~~child~~ individual was 14 or 15 years of age at the time of an alleged felony offense
32 listed in section 707(b) and was not apprehended prior to the end of juvenile court
33 jurisdiction; and
34
35 (2) The ~~child~~ youth should be transferred to the jurisdiction of the criminal court based
36 on an evaluation of all the criteria in section 707(a)~~(2)~~(3) as provided in that section.
37 The court must state on the record the basis for its decision, detailing how it weighed
38 the evidence and identifying the specific factors on which the court relied to reach its
39 decision.

40
41 **(c) * * ***
42

1 **(d) Procedure following findings**

- 2
- 3 (1) If the court finds the child youth should be retained within the jurisdiction of the
- 4 juvenile court, the court must proceed to jurisdiction hearing under rule 5.774.
- 5
- 6 (2) If the court finds the child youth should be transferred to the jurisdiction of the
- 7 criminal court, the court must make orders under section 707.1 relating to bail and to
- 8 the appropriate facility for the custody of the child youth, or release on own
- 9 recognizance pending prosecution. The court must set a date for the child youth to
- 10 appear in criminal court and dismiss the petition without prejudice upon the date of
- 11 that appearance.
- 12
- 13 (3) When the court rules on the request to transfer the child youth to the jurisdiction of
- 14 the criminal court, the court must advise all parties present ~~that regarding~~ appellate
- 15 review of the order ~~must be by petition for extraordinary writ as provided in~~
- 16 subdivision (g) of this rule. The advisement may be given orally or in writing when
- 17 the court makes the ruling. The advisement must include the time for filing the notice
- 18 of appeal or the petition for extraordinary writ as set forth in subdivision (g) of this
- 19 rule. The court must advise the youth of the right to appeal, of the necessary steps
- 20 and time for taking an appeal, and of the right to the appointment of counsel if the
- 21 youth is unable to retain counsel.
- 22

23 **(e) Continuance ~~to seek~~ or stay pending review**

- 24
- 25 (1) If the prosecuting attorney informs the court orally or in writing that a review of the
- 26 court's decision not to transfer jurisdiction to the criminal court will be sought and
- 27 requests a continuance of the jurisdiction hearing, the court must grant a continuance
- 28 for not less than two judicial days to allow time within which to obtain a stay of
- 29 further proceedings from the reviewing judge or appellate court.
- 30
- 31 (2) If the youth informs the court orally or in writing that a notice of appeal of the
- 32 court's decision to transfer jurisdiction to the criminal court will be filed and requests
- 33 a stay, the court must issue a stay of the criminal court proceedings until a final
- 34 determination of the appeal. The court retains jurisdiction to modify or lift the stay
- 35 upon request of the youth.
- 36

37 **(f) Subsequent role of judicial officer**

38

39 Unless the child youth objects, the judicial officer who has conducted a hearing on a

40 motion to transfer jurisdiction may participate in any subsequent contested jurisdiction

41 hearing relating to the same offense.

42

1 (g) **Review of determination on a motion to transfer jurisdiction to criminal court**

2
3 (1) An order granting a motion to transfer jurisdiction of a youth to the criminal court is
4 an appealable order subject to immediate review. A notice of appeal must be filed
5 within 30 days of the order transferring jurisdiction or 30 days after the referee’s
6 order becomes final under rule 5.540(c) or after the denial of an application for
7 rehearing of the referee’s decision to transfer jurisdiction of the youth to the criminal
8 court. If a notice of appeal is timely filed, the court must prepare and submit the
9 record to the Court of Appeal within 20 days.

10
11 (2) An order ~~granting or~~ denying a motion to transfer jurisdiction of a ~~child~~ youth to the
12 criminal court is not an appealable order. Appellate review of the order is by petition
13 for extraordinary writ. Any petition for review of a judge’s order denying a motion to
14 transfer jurisdiction of the child to the criminal court, or denying an application for
15 rehearing of the referee’s determination not to transfer jurisdiction of the child to the
16 criminal court, must be filed no later than 20 days after the child’s first arraignment
17 on an accusatory pleading based on the allegations that led to the transfer of
18 jurisdiction or the judge’s order is entered, or the referee’s order becomes final
19 under rule 5.540(c).

20
21 (h) ***

22
23
24 **Rule 8.50. Applications**

25
26 (a) * * *

27
28 (b) **Contents**

29
30 The application must state facts showing good cause—or making an exceptional showing
31 of good cause, when required by these rules—for granting the application and must
32 identify any previous application filed by any party.

33
34 (c) * * *

35
36 **Advisory Committee Comment**

37
38 **Subdivision (a).** * * *

39
40 **Subdivision (b).** An exceptional showing of good cause is required in applications in certain juvenile
41 proceedings under rules 8.416, 8.417, 8.450, 8.452, and 8.454.
42

1 **Rule 8.60. Extending time**

2
3 (a) * * *

4
5 (b) **Extending time**

6
7 Except as these rules provide otherwise, for good cause—or on an exceptional showing of
8 good cause, when required by these rules—the Chief Justice or presiding justice may
9 extend the time to do any act required or permitted under these rules.

10
11 (c) **Application for extension**

12
13 (1) * * *

14
15 (2) The application must state:

16
17 (A)–(C) * * *

18
19 (D) Good cause—or an exceptional showing of good cause, when required by
20 these rules—for granting the extension, consistent with the factors in rule
21 8.63(b).

22
23 (d)–(f) * * *

24
25 **Advisory Committee Comment**

26
27 **Subdivisions (b) and (c):** An exceptional showing of good cause is required in applications in certain
28 juvenile proceedings under rules 8.416, 8.417, 8.450, 8.452, and 8.454.

29
30
31 **Rule 8.63. Policies and factors governing extensions of time**

32
33 (a) **Policies**

34
35 (1) The time limits prescribed by these rules should generally be met to ensure
36 expeditious conduct of appellate business and public confidence in the efficient
37 administration of appellate justice.

38
39 (2) The effective assistance of counsel to which a party is entitled includes adequate
40 time for counsel to prepare briefs or other documents that fully advance the party’s
41 interests. Adequate time also allows the preparation of accurate, clear, concise, and
42 complete submissions that assist the courts.

1 (3) For a variety of legitimate reasons, counsel may not always be able to prepare briefs
2 or other documents within the time specified in the rules of court. To balance the
3 competing policies stated in (1) and (2), applications to extend time in the reviewing
4 courts must demonstrate good cause—or an exceptional showing of good cause,
5 when required by these rules—under (b). If good cause is shown, the court must
6 extend the time.

7
8 **(b) Factors considered**

9
10 In determining good cause—or an exceptional showing of good cause when required by
11 these rules—the court must consider the following factors when applicable:

12
13 (1)–(11) * * *

14
15 **Advisory Committee Comment**

16
17 An exceptional showing of good cause is required in applications in certain juvenile proceedings under
18 rules 8.416, 8.417, 8.450, 8.452, and 8.454.

19
20
21 **Rule 8.404. Stay pending appeal**

22
23 The court must not stay an order or judgment pending an appeal unless suitable provision is
24 made for the maintenance, care, and custody of the child.

25
26 **Advisory Committee Comment**

27
28 This rule does not apply to a court's order under rule 5.770(e)(2) staying the criminal court proceedings
29 during the pendency of an appeal of an order transferring the minor from juvenile court to a court of
30 criminal jurisdiction.

31
32 **Rule 8.406. Time to appeal**

33
34 **(a) Normal time**

- 35
36 (1) Except as provided in (2)~~and~~, (3), and (4), a notice of appeal must be filed within 60
37 days after the rendition of the judgment or the making of the order being appealed.
38
39 (2) In matters heard by a referee not acting as a temporary judge, a notice of appeal must
40 be filed within 60 days after the referee's order becomes final under rule 5.540(c).
41
42 (3) When an application for rehearing of an order of a referee not acting as a temporary
43 judge is denied under rule 5.542, a notice of appeal from the referee's order must be

1 filed within 60 days after that order is served under rule 5.538(b)(3) or 30 days after
2 entry of the order denying rehearing, whichever is later.

3
4 **(4) To appeal from an order transferring a minor to a court of criminal jurisdiction:**

5
6 **(A) Except as provided in (B) and (C), a notice of appeal must be filed within 30**
7 **days of the making of the order.**

8
9 **(B) If the matter is heard by a referee not acting as a temporary judge, a notice of**
10 **appeal must be filed within 30 days after the referee's order becomes final**
11 **under rule 5.540(c).**

12
13 **(C) When an application for rehearing of an order of a referee not acting as a**
14 **temporary judge is denied under rule 5.542, a notice of appeal from the**
15 **referee's order must be filed within 30 days after entry of the order denying**
16 **rehearing.**

17
18 **(b)–(d) * * ***

19
20 **Rule 8.409. Preparing and sending the record**

21
22 **(a) Application**

23
24 This rule applies to appeals in juvenile cases except cases governed by rules 8.416 and
25 8.417.

26
27 **(b) * * ***

28
29 **(c) Preparing and certifying the transcripts**

30
31 Except in cases governed by rule 8.417, within 20 days after the notice of appeal is filed:

32
33 (1) The clerk must prepare and certify as correct an original of the clerk's transcript and
34 one copy each for the appellant, the respondent, the child's Indian tribe if the tribe
35 has intervened, and the child if the child is represented by counsel on appeal or if a
36 recommendation has been made to the Court of Appeal for appointment of counsel
37 for the child under rule 8.403(b)(2) and that recommendation is either pending with
38 or has been approved by the Court of Appeal but counsel has not yet been appointed;
39 and

40
41 (2) The reporter must prepare, certify as correct, and deliver to the clerk an original of
42 the reporter's transcript and the same number of copies as (1) requires of the clerk's
43 transcript.

1
2 **(d)–(e) * * ***

3
4 **Advisory Committee Comment**

5
6 **Subdivision (a).** Subdivision (a) calls litigants’ attention to the fact that a different rule (~~rule 8.416~~)
7 governs the record in appeals from judgments or orders terminating parental rights and in dependency
8 appeals in certain counties (rule 8.416), and in appeals from orders granting a motion to transfer a minor
9 from juvenile court to a court of criminal jurisdiction (rule 8.417).

10
11 **Subdivision (b).** * * *

12
13 **Subdivision (c).** Subdivision (c) calls litigants’ attention to the fact that a different rule (rule 8.417)
14 governs the record in appeals from orders granting a motion to transfer a minor from juvenile court to a
15 court of criminal jurisdiction.

16
17 **Subdivision (e).** * * *

18
19
20 **Rule 8.412. Briefs by parties and amici curiae**

21
22 **(a)** * * *

23
24 **(b) Time to file**

- 25
26 (1) Except in appeals governed by rules 8.416 and 8.417, the appellant must serve and
27 file the appellant’s opening brief within 40 days after the record is filed in the
28 reviewing court.
29
30 (2) The respondent must serve and file the respondent’s brief within 30 days after the
31 appellant’s opening brief is filed.
32
33 (3) The appellant must serve and file any reply brief within 20 days after the
34 respondent’s brief is filed.
35
36 (4) In dependency cases in which the child is not an appellant but has appellate counsel,
37 the child must serve and file any brief within 10 days after the respondent’s brief is
38 filed.
39
40 (5) Rule 8.220 applies if a party fails to timely file an appellant’s opening brief or a
41 respondent’s brief, but the period specified in the notice required by that rule must be
42 30 days.
43

1 (c) Extensions of time
2

3 The superior court may not order any extensions of time to file briefs. Except in appeals
4 governed by rules 8.416 and 8.417, the reviewing court may order extensions of time for
5 good cause.
6

7 (d) Failure to file a brief
8

9 (1) Except in appeals governed by rules 8.416 and 8.417, if a party fails to timely file an
10 appellant's opening brief or a respondent's brief, the reviewing court clerk must
11 promptly notify the party's counsel or the party, if not represented, in writing that the
12 brief must be filed within 30 days after the notice is sent and that failure to comply
13 may result in one of the following sanctions:
14

15 (A)–(B) * * *

16
17 (2)–(3) * * *

18
19 (e) * * *
20

21 **Advisory Committee Comment**
22

23 **Subdivision (b).** Subdivision (b)(1) calls litigants' attention to the fact that a different rules (~~rule~~
24 ~~8.416(e)~~) governs the time to file an appellant's opening brief in appeals from judgments or orders
25 terminating parental rights and in dependency appeals in certain counties (rule 8.416(e)), and in appeals
26 from orders granting a motion to transfer a minor from juvenile court to a court of criminal jurisdiction
27 (rule 8.417(f)).
28

29 **Subdivision (c).** Subdivision (c) calls litigants' attention to the fact that a different rules (~~rule 8.416(f)~~)
30 governs the showing required for extensions of time to file briefs in appeals from judgments or orders
31 terminating parental rights and in dependency appeals in certain counties (rule 8.416(f)), and in appeals
32 from orders granting a motion to transfer a minor from juvenile court to a court of criminal jurisdiction
33 (rule 8.417(g)).
34

35 **Subdivision (d).** Subdivision (d) calls litigants' attention to the fact that different rules govern the time
36 period specified in the notice of failure to timely file an appellant's opening brief or a respondent's brief
37 in appeals from judgments or orders terminating parental rights and in dependency appeals in certain
38 counties (rule 8.416(g)), and in appeals from orders granting a motion to transfer a minor from juvenile
39 court to a court of criminal jurisdiction (rule 8.417(h)).
40
41

1 **Rule 8.417. Appeals from orders transferring a minor from juvenile court to a court of**
2 **criminal jurisdiction**

3
4 **(a) Application**

5
6 This rule governs appeals from orders of the juvenile court granting a motion to transfer a
7 minor from juvenile court to a court of criminal jurisdiction.
8

9 **(b) Form of record**

- 10
11 (1) The clerk’s and reporter’s transcripts must comply with rules 8.45–8.47, relating to
12 sealed and confidential records, and, except as provided in (2), with rule 8.144.
13
14 (2) The cover of the record must prominently display the title “Appeal from Order
15 Transferring a Minor from Juvenile Court to a Court of Criminal Jurisdiction Under
16 Welfare and Institutions Code Section 801.”
17

18 **(c) Record on appeal**

- 19
20 (1) In addition to the items listed in rule 8.407(a), the clerk’s transcript must contain:
21
22 (A) Any report by the probation officer on the behavioral patterns and social
23 history of the minor, including any oral or written statement offered by the
24 victim under Welfare and Institutions Code section 656.2;
25
26 (B) Any other probation report or document filed with the court on the petition
27 under Welfare and Institutions Code section 602; and
28
29 (C) Any document in written or electronic form submitted to the court in
30 connection with the prima facie showing under rule 5.766(c) or the motion to
31 transfer jurisdiction.
32
33 (2) In addition to the items listed in rule 8.407(b), any reporter’s transcript must contain
34 the oral proceedings at any hearings on the prima facie showing under rule 5.766(c)
35 and the motion to transfer jurisdiction.
36

37 **(d) Preparing, certifying, and sending the record**

- 38
39 (1) Within 20 court days after the notice of appeal is filed:
40
41 (A) The clerk must prepare and certify as correct an original of the clerk’s
42 transcript and one copy each for the appellant, the respondent, and the district
43 appellate project; and

1
2 (B) The reporter must prepare, certify as correct, and deliver to the clerk an
3 original of the reporter's transcript and the same number of copies as (A)
4 requires of the clerk's transcript.
5

6 (2) When the clerk's and reporter's transcripts are certified as correct, the clerk must
7 immediately send:
8

9 (A) The original transcripts to the reviewing court by the most expeditious method,
10 noting the sending date on each original; and
11

12 (B) One copy of each transcript to the district appellate project and to the appellate
13 counsel for the following, if they have appellate counsel, by any method as fast
14 as United States Postal Service express mail:
15

16 (i) The appellant; and
17

18 (ii) The respondent.
19

20 (3) If appellate counsel has not yet been retained or appointed for the minor, when the
21 transcripts are certified as correct, the clerk must send that counsel's copies of the
22 transcripts to the district appellate project.
23

24 **(e) Augmenting or correcting the record**
25

26 (1) Except as provided in (2) and (3), rule 8.410 governs any augmentation or correction
27 of the record.
28

29 (2) An appellant must serve and file any motion for augmentation or correction within
30 15 days after receiving the record. A respondent must serve and file any such motion
31 within 15 days after the appellant's opening brief is filed.
32

33 (3) The clerk and the reporter must prepare any supplemental transcripts within 20 days,
34 giving them the highest priority.
35

36 (4) The clerk must certify and send any supplemental transcripts as required by (d).
37

38 **(f) Time to file briefs**
39

40 (1) The appellant must serve and file the appellant's opening brief within 30 days after
41 the record is filed in the reviewing court.
42

43 (2) Rule 8.412(b) governs the time for filing other briefs.

1
2 **(g) Extensions of time**

3
4 The superior court may not order any extensions of time to prepare the record or to file
5 briefs; the reviewing court may order extensions of time but must require an exceptional
6 showing of good cause.

7
8 **(h) Failure to file a brief**

9
10 Rule 8.412(d) applies if a party fails to timely file an appellant's opening brief or a
11 respondent's brief, but the period specified in the notice required by that rule must be 15
12 days.

13
14 **(i) Oral argument and submission of the cause**

15
16 (1) Unless the reviewing court orders otherwise, counsel must serve and file any request
17 for oral argument no later than 15 days after the appellant's reply brief is filed or due
18 to be filed. Failure to file a timely request will be deemed a waiver.

19
20 (2) The court must hear oral argument within 60 days after the appellant's last reply
21 brief is filed or due to be filed, unless the court extends the time for good cause or
22 counsel waive argument.

23
24 (3) If counsel waive argument, the cause is deemed submitted no later than 60 days after
25 the appellant's reply brief is filed or due to be filed.

26
27 **Advisory Committee Comment**

28
29 **Subdivision (d).** Under rule 8.71(c), the superior court clerk may send the record to the reviewing court
30 in electronic form.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council JV-710.V7.030722.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Case Name:	
ORDER TO TRANSFER JUVENILE TO CRIMINAL COURT JURISDICTION (Welfare and Institutions Code, § 707)	CASE NUMBER:

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

Date: _____

 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT 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 JV-800.v4.031722.ja
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
NOTICE OF APPEAL—JUVENILE	CASE NUMBER:

— INSTRUCTIONS —

- You or your attorney **must** fill in items 1 and 2 and sign this form at the bottom of the page. If possible, to help process your appeal, fill in items 5-7 on the reverse of this form.
- For most appeals, you must file a written notice of appeal within **60** days after rendition of the judgment or the making of the order being appealed or, in matters heard by a referee, within **60** days after the order of the referee becomes final. Read rule 8.406.
- To appeal an order transferring jurisdiction to the criminal court, you must file the notice of appeal within **30** days. Read rules 5.770(g) and 8.406(a)(4).
- To file an appeal of an order for transfer to a tribal court, you (1) may ask the juvenile court to stay (delay the effective date of) the transfer order and (2) must file the appeal before the transfer to tribal jurisdiction is finalized. Read rule 5.483 and the advisory committee comment.
- If you are not the county welfare department, district attorney, child, child's parent, or child's legal guardian, you may have a right to challenge a decision by the juvenile court, but only in very limited circumstances. You may need a court order granting you access to records in the juvenile case file. For more information, please see *Information on Requesting Access to Records for Persons With a Limited Right to Appeal* (form JV-291- INFO). You can get form JV-291-INFO at any courthouse or county law library or online at www.courts.ca.g/forms.

1. I appeal from the findings and orders of the court (specify date of order or describe order):

2. This appeal is filed by
 - a. Appellant (name):
 - b. Address:
 - c. Phone number:
 - d. Name, address, and phone number of person to be contacted (if different from appellant):
 - e. Appellant has been granted access to specified records in the juvenile case file, and a copy of the court's order under Welfare and Institutions Code section 827(a)(1)(Q), on *Order After Judicial Review on Petition for Access to Juvenile Case File* (form JV-574), if available, is attached.
3. I request that the court appoint an attorney on appeal. I was was not represented by an appointed attorney in the superior court.
4. Items 5–7 on the reverse are completed not completed.

Date:

 TYPE OR PRINT NAME

 SIGNATURE OF APPELLANT ATTORNEY

CHILD'S NAME:	CASE NUMBER:
---------------	--------------

5. Appellant is the
- a. child.
 - b. mother.
 - c. father.
 - d. legal guardian.
 - e. de facto parent.
 - f. county welfare department.
 - g. district attorney.
 - h. child's tribe.
 - i. other (state relationship to child or interest in the case):
6. This notice of appeal pertains to the following child or children (specify number of children included):
- a. Name of child:
Child's date of birth:
 - b. Name of child:
Child's date of birth:
 - c. Name of child:
Child's date of birth:
 - d. Name of child:
Child's date of birth:
 Continued in Attachment 6.
7. The order appealed from was made under Welfare and Institutions Code (check all that apply):
- a. **Section 305.5** (transfer to tribal court)
 Granting transfer to tribal court Denying transfer to tribal court
 Dates of hearing (specify):
 - b. **Section 360** (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
 Dates of hearing (specify):
 - c. **Section 366.26** (selection and implementation of permanent plan)
 Termination of parental rights Appointment of guardian Planned permanent living arrangement
 Dates of hearing (specify):
 - d. **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)
 Dates of hearing (specify):
 - e. **Section 388** (request to change court order)
 Dates of hearing (specify):
 - f. Other appealable orders relating to dependency (specify):
 Dates of hearing (specify):
 - g. **Section 725** (declaration of wardship and other orders)
 with review of section 601 jurisdictional findings
 with review of section 602 jurisdictional findings
 Dates of hearing (specify):
 - h. **Section 707** (order transferring jurisdiction to criminal court)
 Dates of hearing (specify):
 - i. Other appealable orders relating to delinquency (specify):
 Dates of hearing (specify):