



**Superior Court of California
County of Fresno**

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NOTICE

Emergency Juvenile Delinquency Rule in Response to COVID-19:

Reason for Amendment: In response to states of emergency declared by the President of the United States and the Governor of the State of California as a result of COVID-19 and resulting orders from the Presiding Judge of the Fresno County Superior Court, two emergency orders were issued jointly by the Juvenile Delinquency judges as approved by the Presiding Judge of the Fresno County Superior Court. Significant efforts have been made by the Fresno County Superior Court judiciary, administration, and staff as well as by justice partners to devise hearings that are safe, timely, and lawful. The Emergency Juvenile Delinquency Rule in Response to COVID-19 was submitted to the Presiding Judge of the Fresno County Superior Court on April 3, 2020, and was approved by Presiding Judge Arlan L. Harrell on April 5, 2020. Subsequent to the approval of the local rule, the Judicial Council met on April 6, 2020, and approved Emergency Rules, including Rule 7 which applies to Juvenile Delinquency Provisions. The Juvenile Delinquency Division has just been able to conduct the first telephonic hearings via WebEx on April 8, 2020; we are awaiting delivery of equipment to be able to advance to Zoom or other remote technology hearings. The local rule is now amended to ensure it is consistent with Emergency Rule 7. Priority of certain emergency matters (including emergency medication request) as set forth in Emergency Rule 7 were not specifically set forth in our local rule as these were not matters that had been delayed locally. At all times, in the event this rule is silent or conflicts with Emergency Rule 7, Emergency Rule 7 shall apply and be followed.

RULE 6.8 DELINQUENCY

6.8.7 Emergency Juvenile Delinquency Rule in Response to COVID-19

A. **Application of Rule.** This Rule shall become effective as soon as authorized by the Presiding Judge of the Fresno County Superior Court. Its provisions shall remain in effect until 90 days after the Governor declares the end of the State of Emergency for California as a result of COVID-19.

B. **Resetting of Matters Previously set between and including April 6, 2020 and May 1, 2020.** By order of the Presiding Judge of the Fresno County Superior Court, the days between April 6, 2020 and May 1, 2020 are nonjudicial.

C. **Priority of Hearings.**

1. **In-custody detention hearings:** As soon as it is safe and practicable, priority shall be given to detention hearings for in-custody youth. All

appearances shall be by telephone when adequate equipment and accessories are installed and/or, as it becomes available, via remote technology.

2. Uncontested or matters submitted without argument: Counsel is encouraged to meet and confer in order to resolve cases. When the emergency subsides and operations begin to come back online, there will be a backlog. This rule is intended to reduce the backlog and increase timeliness as much as possible even in these emergency circumstances.

a. In-custody youth: With first priority being in-custody detention hearings, second priority will be resolution of or submissions on in-custody matters. Third priority will be out-of-custody agreements or resolutions. If there is no argument regarding a disposition for an in-custody youth, and both defense and the People intend to submit on Probation's recommendation, counsel or Probation may submit and ex-parte application for a hearing. Counsel may also resolve matters by submitting a written stipulation, bearing the signatures of all counsel, the minor, and Probation, as to any in-custody matters. The court shall have discretion to accept the stipulation and cause a minute order to be generated, or the court may set the matter for hearing if resources are sufficient. No particular form or format is required for the written stipulation; however, it must be signed as set forth in this rule, and the case number and information must be clearly set forth.

b. Out-of-custody youth: In order to timely process and resolve cases for as many youth as possible, the court encourages counsel to meet and confer regarding out-of-custody matters. Third priority will be given to resolutions of out-of-custody matters. Counsel may submit a written stipulation resolving any out-of-custody case on the same terms as set forth for in-custody cases above. Counsel may additionally submit in writing on any uncontested Probation recommendation; for example, a Probation recommendation regarding Welfare and Institutions Code section 786 sealing, or successful informal probation report. If the court accepts an agreement, the court shall cause a minute order to be generated. If the court determines a hearing is necessary, the hearing will be set based upon resources and case priority. Oral contact from attorneys is not sufficient to establish an agreement; a written stipulation with the required signatures must be submitted. On any agreement that is in the youth's favor (for example, a sealing or successful informal probation) the signature of defense counsel is sufficient on behalf of the youth; the youth's signature need not be obtained.

4. Emergency matters: Counsel, the youth, or Probation may submit an ex-parte application for a hearing on the grounds that an emergency exists. The person or agency submitting the ex-parte request must set forth with particularity the specifics of the emergency as well as clearly state the order that

will be requested at the hearing. The court shall grant or deny the request for an emergency hearing based on the sufficiency of the application.

5. Any other matters within discretion of a Juvenile Delinquency Judge: Each judge assigned to the Juvenile Delinquency Division shall have broad discretion, based upon resources available, to hear and set matters in addition to those set forth in this rule.

D. Telephonic and Remote Appearances at Hearings. During the time this rule is in effect, all hearings shall take place either telephonically or, as it becomes available, using remote technology. Parents who would otherwise want to be present for a hearing must provide Probation with a telephone number. When the matter is heard, one attempt will be made to contact that parent via telephone. If the parent does not answer, the parent's presence shall be deemed waived by the parent and youth. The youth shall be granted a phone call to the parent after the hearing. If victims wish to make statements, they may do so in writing, or by giving their input to the People, or by telephone. Victims must provide a phone number either to Probation or to the People; the judicial assistant will make one attempt to contact the victim at the time of the hearing. If the victim does not answer, their participation is deemed waived. All counsel and Probation shall appear either by telephone or via remote technology at the direction of the court.

E. Tolling of Time for Informal Probation, Community Justice Conference, and Welfare and Institutions Code section 725(a) NonWardship Proceedings:

1. Informal probation: Welfare and Institutions Code section 654.2 requires youth to complete Informal Probation within one year of the date of the filing of a petition. However, due to court closures or limited opening, youth who are otherwise appropriate for such diversion programs would lose their opportunity to participate. Similarly, when the COVID-19 Emergency first occurred, there were youth who were in the process of completing their Informal Probation terms. But for this rule, both the youth in process of Informal Probation and those who would request it toward the onset of their cases would lose the opportunity to participate in this program. In order to preserve the right and opportunity of youth to be participate and succeed in Informal Probation, time shall be tolled between March 18, 2020 (the date of the Presiding Judge's General Order re COVID-19) and 90 days after the Governor declares the end of the State of Emergency for California.

2. Community Justice Conference (CJC): Community Justice Conference is a restorative justice program which has been proven successful. Successful participation requires the youth and usually the named victim to participate. The passage of time between the filing of an out-of-custody petition and arraignment is significantly increased by the COVID-19 emergency, and the passage of time impacts the availability of named victims for participation. In order to preserve the opportunity for youth to participate in and benefit from CJC,

juvenile court judges shall have broad discretion to grant a youth's request for a surrogate to participate in the event the named victim is unavailable or unwilling to participate.

3. Non-wardship probation: Welfare and Institutions Code section 725 requires that non-wardship probation be concluded within six months. But for this rule, youth who are participating in non-wardship probation would lose their opportunity to successfully conclude their program within the statutory time. In order to preserve the right and opportunity of youth to be participate and succeed in non-wardship probation, time shall be tolled between March 18, 2020 (the date of the Presiding Judge's General Order re COVID-19) and 90 days after the Governor declares the end of the State of Emergency for California

4. No prejudice to youth seeking dismissal: This rule is intended to expand the time frame during which youth may seek and be granted the opportunity to complete statutory and local diversion programs. Nothing in this rule is intended to prevent a youth from seeking dismissal under Welfare and Institutions Code section 782. Nothing in this rule shall prevent a youth from the opportunity to use lawful and appropriate behavior during the tolled period of time as grounds for requesting relief under Welfare and Institutions Code section 782.

F. Instant disposition. The judge may, even over objection, proceed to instant disposition upon admission or a finding of true in any matter in which the judge determines there is sufficient information to proceed. (Effective April 8, 2020, New)