



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO
Hall of Justice and Records
400 County Center
Redwood City, California 94063-0965

JOHN C. FITTON
COURT EXECUTIVE OFFICER
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March 27, 2007

Following are proposed amendments to the Local Court Rules that will become effective on July 1, 2007 when adopted. The court invites you to review and provide comments to these proposals.

You may send your comments to:

smcomment@sanmateocourt.org

with a subject line stating "Comments on Proposed Local Rules". Please refer to the proposed rule number either LR 07-01 or 07-02, Rule number and line number.

Comments must be received in our office no later than 4 PM, May 11, 2007.

Sincerely,
John C. Fitton, Court Executive Officer

A handwritten signature in cursive script that reads "Timothy J. Gee".

By: Timothy Gee
Court Rules Committee Staff

PROPOSED LOCAL RULE CHANGE – LR07-01

RULE 5.16 COORDINATION OF COURT PROCEEDINGS AND SHARING OF CASE INFORMATION INVOLVING MINORS

A. Coordination and Determination of Forum.

It is the policy of the Superior Court to identify and coordinate proceedings involving the same minor which may be scheduled in multiple legal settings. It is further the policy of the Superior Court to coordinate the efforts of the different court divisions so that the minor’s needs are served and the resources of the family and the court are not wasted. To these ends, the Superior Court and the agencies serving the court shall establish policies and procedures for the Human Services Agency’s Department of Children & Family Services (“DCFS”), Family Court Services mediators, (“FCS”), the Probate Court investigators (“PCI”), and, Juvenile Probation Officers (“JPO”), Victims of Violent Crimes Unit of the District Attorney’s Office (“VC”) and the Family Law Facilitators (“FLF”), to exchange information and to determine the most appropriate forum for the resolution of the issues relating to the minor. The Juvenile Mediation Program (“JMP”) staff and/or mediators shall be an included recipient of such information when a minor and/or his/her family has been referred to the program.

B. Confidentiality of Minor’s Information.

All recipients of information described in section A above shall respect its confidentiality and not disclose it to unauthorized third parties or use it for any purpose other than to determine the most appropriate forum or services for the minor and the minor’s family. This protocol shall be read to be consistent with WIC §827 & §204, Pen. C. §11167.5, Family C. §3111, Probate C. §1514.5, Evidence C. § 1115-1126, WI C. §350, California Rules of Court Rule 5.518 and all other statutes governing confidentiality of information relating to reports of child abuse or neglect. In the event of any conflict over the interpretation of this protocol, the interpretation most consistent with the policy reflected in those statutory provisions shall prevail.

RULE 5.16.1 INFORMATION SHARING PROTOCOL BETWEEN AND AMONG THE COURT AND DEPARTMENT OF CHILDREN & FAMILY COURT SERVICES (DCFS), FAMILY COURT SERVICES (FCS), PROBATE COURT INVESTIGATORS (PCI), FAMILY LAW FACILITATOR (FLF), DISTRICT ATTORNEY’S VIOLENT CRIME UNIT (VC), AND JUVENILE PROBATION OFFICERS (JPO) STAFF.

A. Each agency staff person may orally, or in writing, disclose to each of the other respective agency staff, the following information:

1. Whether a child or his/her parents or caretaker(s) are or have been the subject of a child abuse, neglect, probate, criminal or delinquency investigation, regardless of whether or not that investigation resulted in a petition being filed. The findings and status of that investigation, the recommendations made or anticipated to be made by the respective agency, regardless of whether or not that investigation resulted in a petition being filed. The progress of the proceedings while under court supervision including compliance with court orders, and a copy of any court order in existence as well as probation conditions with respect to the child, parent(s) or caretaker(s).

2. Any statement made by the child or the child’s parents, guardians or caretakers which might bear upon on the issue of the best interest of that child, or a sibling or half-sibling living with or visiting with that child, who is involved in a pending Family, or Probate Court matter. Any statement made by the child or the child’s parents, guardians or caretakers which might bear upon the issue of the child’s dependency or delinquency or any disposition in the dependency or delinquency proceedings.

B. FCS may include information described in Section “A” above in the confidential portion of their court reports and keep such information in their case files.

57 C. Exchange of Documents.

58 1. The respective agencies may provide written documents to each other. The documents may
59 include, but are not limited to, relevant portions of investigation notes, progress notes and summaries,
60 information regarding the health status of the minor, any documentation relative to paternity and court
61 reports containing information described in "A.1" and "A.2" above.

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63 2. Child abuse and neglect reports described by Penal Code Section 11167.5 (*Suspected Child Abuse*
64 *Report* form #S-8572), information disclosing the identity of a reporting party, or court-ordered
65 psychological evaluations will not be exchanged between the agencies absent a court order.

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67 3. Copies of DCFS or JPO documents, used by FCS, or PCI shall not be attached to their respective
68 court reports and shall not be made available to the public without a court order.

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70 D. Designation of Staff for Information Access. FCS and PCI will designate an appropriate staff person to
71 maintain a current list of court mediators, and facilitators and probate investigators who are authorized to
72 receive information exchanged under this Rule, and periodically distribute this list to DCFS, VC and JPO or
73 when ever there is any change in the make up of those lists.

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75 E. Family Law Facilitator Information Access Limitation. For purposes of this Rule, the only information
76 that may be disclosed to FLF is whether or not a case is pending in the juvenile court regarding a particular
77 minor, if that case has been terminated, and the information contained in the exit orders.

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79 F. Information Access by Juvenile Mediation Program. For purposes of this Rule, Juvenile Mediation
80 Program ("JMP") staff and/or mediators shall be an included recipient of the information set forth above in
81 paragraphs A.1, A.2 and C whenever a minor and/or his/her family has been referred to the program.

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84 **RULE 5.16.2 JUVENILE DEPENDENCY ACTION CAUSING SUSPENSION OF RELATED**
85 **PROCEEDINGS**

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87 If a petition pursuant to WIC § 300 is filed in the Juvenile Court, all custody and visitation proceedings in the
88 Family Court, and all guardianship proceedings in the Probate Court, are suspended. Thereafter, consistent with
89 WIC §304, custody and visitation shall be determined by the Juvenile Court until the juvenile case is dismissed. The
90 Child Welfare Worker shall advise the Juvenile Court of the pendency of any Family Court matter, including case
91 number and department, and the Juvenile Court shall advise the Family Court and the Probate Court of the
92 suspension of its jurisdiction by issuing a notice in a form agreed upon by those courts.

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95 **RULE 5.16.3 JUVENILE COURT MODIFICATION OF RELATED NON-JUVENILE COURT**
96 **ORDERS**

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98 Any restraining order, stay away order or no contact order issued by any non-juvenile division of the Superior Court,
99 other than a criminal court, against a parent or caregiver with respect to a child under the jurisdiction of the Juvenile
100 Court, may be temporarily modified by the Juvenile Court if the Juvenile Court finds such contact to be in the best
101 interest of the child. Permanent modification of the order may occur after all parties have been noticed and provided
102 an opportunity to be heard. Notice of any temporary or permanent modification shall be given by the Juvenile Court
103 to the court originally issuing the order by providing a copy of the minute order to the originating court. The
104 Juvenile Court's order shall specifically state that it is a modification of the other court division's order.

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107 **RULE 5.16.4 JUVENILE COURT EXIT ORDERS**

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109 Any exit orders of the Juvenile Court determining custody, visitation or restraining contact over a child who is a
110 dependent or a ward of the court shall be filed in any existing family law, probate or criminal proceeding involving
111 the child and his/her parent or caregiver. If no such file exists in the family law division, then upon the dismissal of
112 dependency or termination of wardship, the Juvenile Court order shall be the basis to open a file. No filing fee shall
113 be required for opening this file.

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RULE 5.16.5 FAMILY COURT MODIFICATION OF JUVENILE COURT ORDERS

, Juvenile court orders establishing custody, visitation, or restraining orders may be modified by petition to the Family Court subsequent to the dismissal of dependency or termination of wardship over a minor. Proceedings to modify or terminate guardianship established through Juvenile Court shall be heard in the Juvenile Court, as required by WIC §366.3(b).

(Adopted, effective July 1, 2007)

[Discussion: These proposed new Local Rules were developed by a joint work group comprised of Family and Juvenile Court judicial officers, Court ADR staff, Family Court Services, and County Counsel that was formed to address coordinating court cases involving minors and the sharing of confidential information also involving minors as mandated by AB 2228 (Chapter 574, 2004). Coordinating court proceedings and sharing of information among the court and agencies included in the rules better ensures that the needs of the minor are met and that the court’s, agencies and family’s resources are better utilized. Each agency and the court will develop policies and procedures to implement the provisions of these rules and to ensure maintaining the confidentiality of the information being exchanged as provided for herein.]

PROPOSED LOCAL RULE CHANGE – LR07-02

3.10 Tentative Rulings

- (a) Unchanged
- (b) Availability. A tentative ruling on a law and motion matter may be obtained by telephoning (650) 599-3481 after 3:00 p.m. or by accessing the court’s website at:
www.co.sanmateo.ca.us/sanmateocourts/index.htm
<http://www.sanmateocourt.org/director.php?filename=../lawmotion/alltentrules.php>
 on the first court day immediately preceding the hearing on the motion.

- (c) Unchanged

(Adopted, effective July 1, 2000)(Amended, effective Jan. 1, 2007)
(Amended, effective July 1, 2007)

[Discussion: The change to this Local Rule is needed to update information on where tentative rulings can be found.]