

PROPOSED AMENDED RULE OF COURT 2.590: CONFIDENTIALITY OF MINORS IDENTITY IN CIVIL ACTIONS

RESOLVED: That the Conference of California Bar Associations recommends that the Judicial Council amend the California Rules of Court to add Rule 2.590 to read as follows:

RULE 2.590: Privacy Protection for Minors in Civil Actions

- (a) Where a pleading or other paper filed with the court in a civil action or proceeding, not including family law or Probate matters, contains the name of an individual known to be a minor, the name of the minor shall be redacted or replaced with the minor's initials. If the parents of a minor are also identified in any pleading or document in an action involving a minor, their last name shall be redacted or replaced with initials as well.
- (b) Upon filing any action against a minor subject to Paragraph (a), the plaintiff shall file with the court a Confidential Reference List of Identifiers, Form MC-120, containing the true names of any defendant identified by their initials in any court documents.
- (c) In the event that discovery or other pleadings are served on third parties in the action, the discovery or other pleading shall use the initials in the complaint and the third party shall be provided with a copy of Form MC-120, filed with the court, identifying the names of the persons identified by initials in the pleadings and discovery.
- (d) The court may, upon request, or on its own motion, for good cause shown, issue an order permitting the identity of the minor and/or his parents to be disclosed in documents filed with the court after balancing the policy of protecting the identity of the minor against the interests of other parties and practical issues that may arise in the course of the litigation. The court shall consider other ways in which the interests of other parties and non-parties can be accommodated while maintaining the protections of the minor's name in the court records available to the public.

PROPONANT: Los Angeles Bar Association

## STATEMENT OF REASONS:

Existing law: California law has no rules in place to require that the identity of a minor be protected in a civil action.

This resolution: Creates a new rule, 2.590, that requires the identity of a minor under the age of 16 to be protected in a civil proceeding. This rule would adopt the federal rule which requires the identity of a minor to be redacted from any pleading filed with the court and those minors be identified by their initials.

The Problem: There is a strong public policy to protect the identity of minors who are accused of wrongdoing or otherwise involved in litigation. The state, as *Parens Patriae*, is charged with a continuing interest in minor children's welfare. *Johnson v. Superior Court*, (2000) 80 Cal App. 4<sup>th</sup> 1050, 878. The Federal courts recognize and implement the public policy of protecting the identity of minors who become involved in civil litigation. (See Federal Rules of Civil Procedure Rule 5.2) [Where a pleading or other paper filed with the court contains the name of an individual known to be a minor the filing may include only "the minor's initials."].

However, California has no rules which require that a minor's identity be protected when they are identified in a civil action. They may be accused of crimes or other "despicable conduct", or they might be the victims of such crimes. The lack of a rule to protect the identity of a child has resulted in public allegations of wrongdoing being filed to gratify private spite and in an attempt to permanently stain the reputation of a child. It is essential that a rule be adopted to protect children from the public exposure of claims and allegations in civil proceedings which can follow them for the rest of their lives. Once filed, the pleadings in a civil action are subject to strict rules concerning the public's access to the records filed in court. There is no guarantee that a judge will seal the records containing the identity of a minor where there is no rule requiring that the identity of a minor be protected.

## IMPACT STATEMENT:

This Resolution compliments the various rules and statutes that protect the identity of minors in various court proceedings.

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