



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 16, 2016

Title	Agenda Item Type
Traffic: Installment Payment of Bail Forfeiture and Traffic Violator School Fees	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms TR-300 and TR-310	January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017
Recommended by	Date of Report
Traffic Advisory Committee Hon. Gail Dekreon, Chair	December 1, 2016
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Executive Summary

The Traffic Advisory Committee recommends revising forms TR-300 and TR-310 for installment payments for traffic infractions. These revisions would standardize and improve court procedures related to installment payment plans for infraction offenses and would expand the advisement of rights provided to defendants. The revised forms would inform defendants of their right to request a determination of their ability to pay at any time before their final payment. The committee developed the revised forms in response to Judicial Council directives to consider recommendations to promote access to justice in all infraction cases.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2017, with implementation as soon as reasonably possible, but no later than May 1, 2017:

1. Revise forms TR-300, *Agreement to Pay and Forfeit Bail in Installments*; and TR-310, *Agreement to Pay Traffic Violator School Fees in Installments*.

Courts must implement these provisions as soon as reasonably possible but no later than May 1, 2017. The revised forms are attached at pages 11–14.

Previous Council Action

Recent studies and reports on state infraction laws have raised concerns about procedural fairness in infraction proceedings, particularly about procedures relating to deposit of bail before defendants appear for arraignment. In response, the Judicial Council adopted rule 4.105 of the California Rules of Court on an expedited basis, effective June 8, 2015, to require courts to allow traffic infraction defendants to appear as promised for arraignment and trial without prior deposit of bail, unless certain specified exceptions apply, and to require courts to notify defendants of the option to appear in court without deposit of bail in any instructions or other materials regarding bail provided by courts to the public. The Judicial Council also directed the appropriate advisory committees to consider rule, form, or any other recommendations necessary to promote access to justice in all infraction cases including recommendations related to postconviction proceedings or after the defendant has previously failed to appear or pay.

Rationale for Recommendation

California Vehicle Code¹ sections 40510.5 and 42007 authorize court clerks to accept bail forfeitures and traffic violator school fees in installments for traffic infractions. Sections 40510.5 and 42007 also require the Judicial Council to adopt forms for court clerks to use for processing the installment payments. Courts are not required to offer installment payment plans, but courts that allow clerks to offer installment payment plans for bail or traffic violator school fees in traffic infraction cases must use forms adopted by the Judicial Council for the intended procedures.

The committee has examined court procedures for infraction cases to develop ways to improve access to justice as directed by the council. As part of that effort, the committee proposes revising forms to further standardize and improve the imposition of bail, fines, and assessments when the defendant wishes to pay by installment. Specifically, the committee recommends revising forms TR-300, *Agreement to Pay and Forfeit Bail in Installments*, and TR-310, *Agreement to Pay Traffic Violator School Fees in Installments*—which court clerks use to process installment payment plans—with expanded advisement of rights in traffic infraction cases.

¹ All statutory references are to the Vehicle Code unless specified.

Form TR-300

As provided in section 40510.5, existing form TR-300 is used by court clerks to accept payment and forfeiture of bail in installments for traffic infraction violations that do not require a mandatory court appearance. Under current law, a court that uses the form is required to continue the case for completion of the payments and report a bail forfeiture to the Department of Motor Vehicles (DMV) as a conviction on the date the agreement is signed. (Veh. Code, § 40510.5(b), (d).) No trust account is required, and payments are distributed when received. (*Id.*, § 40510.5(f).) If a defendant fails to make a payment as agreed, the court may report the failure to pay to the DMV, charge a failure to pay or failure to appear under Vehicle Code section 40508, issue a warrant, or send a notice that a civil assessment will be imposed if the defendant does not show good cause for the failure to pay. (*Id.*, §§ 40509.5, 40510.5(e); Pen. Code, § 1214.1(b)(1).) Each bail installment payment made in this procedure for infractions is final and not subject to reconsideration as bail that is deposited for other criminal cases. (Veh. Code, § 40510.5(c).) The information on form TR-300 is consistent with the above statutes.

Because the installment payment procedure does not require an arraignment or an appearance before a judicial officer in court, and because there are significant legal consequences for failure to make an installment payment, the form includes an express written advisement of rights and signed waiver of rights by the defendant. The form includes signed acknowledgements of the consequences for failure to pay an installment.

To enhance procedural fairness for infraction cases, the committee proposes revising form TR-300 to provide an expanded advisement and waiver of rights. Page 2 of the revised form would expand notice of the defendant's rights to include: "To ask for community service instead of paying the total amount due."

Page 2 of revised form TR-300 would also inform the defendant of his or her right to request an ability-to-pay determination at any time before making the final payment, as well as the options available to the court in considering that request:

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request.

By signing form TR-300, the defendant affirms that he or she has read and understood the advisement and the terms and conditions of the agreement, elects to waive the rights in the advisement, and agrees to pay and forfeit bail in installments.

Additional minor changes to clarify and update form TR-300 would include:

- Revising the instructions at the top of page 1 to indicate that the form is to be “completed by the court.” This language would replace the instruction that the form be “filled out by a court clerk” to recognize current practices at some local courts, where case management systems frequently generate these forms, even when defendants enter into installment agreements at the clerk’s counter.
- Revising section 1 to include minor stylistic changes to language.
- Revising section 2 to recognize that a defendant may have been granted an extension of his or her appearance date. Section 2 would also use plain language to state that the appearance or extension date “has not passed.”
- Revising section 3 to remove as unnecessary the statement by the defendant that: “I am not able to pay the entire amount at the present time. I ask the court to allow me to pay in installments.”
- Revising section 4 to clarify that: “each violation that is reportable to the Department of Motor Vehicles and has no proof of correction will be reported as a conviction.”
- Revising section 5 to enhance visual clarity and readability and to provide for greater consistency with proposed new form TR-300 (online), which the committee is presenting to the council in a separate proposal.
- Revising section 5 to clarify the list of possible actions by the court for failure to pay as agreed.
- Revising section 5 to remove the instruction to see the clerk the next court day after a missed payment.
- Revising for improved readability the notice to defendants at the bottom of the form regarding the consequences of signing the form.
- Revising the bottom of the form to collect the telephone number and e-mail address of the defendant.
- Revising the bottom of the form to add optional provisions for defendants to request electronic notifications, SMS text messages, and call reminders about the installment payments due under the agreement. The shaded text is intended to be optional so that courts may omit this language if they are not able to provide electronic notices, text messages, or call reminders.
- Revising the bottom of the form to remove the space previously provided for entering the expiration date of the defendant’s driver’s license. This revision would provide sufficient space on the form to collect the defendant’s telephone number and e-mail address.
- Revising page 2 to include minor changes to wording to improve readability.
- Revising page 2 to add optional language to inform defendants: “If you do not make a payment, please contact the court as soon as possible to make arrangements.”

Form TR-310

Form TR-310 is used by court clerks to accept installment payment of traffic violator school fees for eligible traffic infractions. Installment payment agreements are limited to a maximum length of 90 days by statute. (Veh. Code, § 42007(a)(2).) Proof of completion for attendance of traffic

violator school is due at the time of the final payment. (*Ibid.*) If a defendant fails to pay an installment, the court may convert the fee to bail, declare it forfeited, and report the forfeiture as a conviction under Vehicle Code section 1803. (*Id.*, § 42007(a)(3).) The court may declare that no further proceedings be had or charge a failure to pay and impose a civil assessment or issue a warrant. (*Ibid.*) The information on form TR-310 is consistent with the above statutes.

To further enhance procedural fairness for infraction cases, the committee recommends revising form TR-310 to provide an expanded advisement and waiver of rights. Revised form TR-310 would provide notice of the defendant's rights: (1) "To appear in court without deposit of bail for formal arraignment, plea, and sentencing;" and (2) "To ask for community service instead of paying the total amount due." In addition, the advisement would also be updated to be consistent with rule 4.105 and state that defendants may "request and have a court trial to challenge the charges without deposit of bail, unless the court orders bail."

Page 2 of the revised form would also provide notice to the defendant of the right to request an ability-to-pay determination at any time before making the final payment, as well as the options available to the court in considering that request:

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request. If the court grants your request, you may no longer be eligible for traffic school.

By signing form TR-310, the defendant affirms that he or she has read and understood the advisement and the terms and conditions of the agreement, elects to waive the rights in the advisement, and agrees to pay traffic violator school fees in installments.

Additional minor changes to clarify and update form TR-310 would include:

- Revising the instructions at the top of page 1 to indicate that the form is to be "completed by the court." This language would replace the instruction that the form be "filled out by a court clerk" to recognize current practices at some local courts, where case management systems frequently generate these forms, even when defendants enter into installment agreements at the clerk's counter.
- Revising section 1 to include minor stylistic changes to language.
- Revising section 2 to recognize that a defendant may have been granted an extension of his or her appearance date. Section 2 would also use plain language to state that the appearance or extension date "has not passed."

- Revising section 3 to remove as unnecessary the statement by the defendant that: “I am not able to and I ask the court to allow me to pay in installments. I understand that the court has costs and expenses from accepting a request to pay the fees in installments.”
- Revising section 4 to enhance visual clarity and readability and to provide for greater consistency with proposed new form TR-310 (online), which the committee is presenting to the council in a separate proposal.
- Revising section 4 to clarify the list of possible actions by the court for failure to pay as agreed.
- Revising section 4 to remove the instruction to see the clerk the next court day after a missed payment.
- Revising the notice to defendants at the bottom of the form regarding the consequences of signing the form to improve readability.
- Revising the bottom of the form to collect the telephone number and e-mail address of the defendant.
- Revising the bottom of the form to add optional provisions for defendants to request electronic notifications, call reminders, and SMS text messages about the installment payments due under the agreement. The shaded text is intended to be optional so that courts may omit the option if their systems are not able to provide electronic notices or text messages.
- Revising the bottom of the form to remove the space for providing the expiration date of the defendant’s driver’s license. This revision would provide sufficient space on the form to collect the defendant’s telephone number and e-mail address.
- Revising page 2 to add optional language to inform defendants: “If you do not make a payment, please contact the court as soon as possible to make arrangements.”

Comments, Alternatives Considered, and Policy Implications

This proposal circulated twice for public comment. It was first circulated in March and April 2016. In light of the comments received during the first circulation and other developments, the committee revised the proposal and recommended its recirculation on an expedited basis from August 3 to August 26, 2016, to allow it to go into effect on January 1, 2017. All commenters who submitted comments during the first circulation were instructed to resubmit comments during the second circulation if their concerns had not been addressed in the revised proposal.

Comments

Eleven comments were submitted in response to the second invitation to comment; two agreed with the proposal, two agreed with the proposal if modified, two disagreed with the proposal, and five did not indicate their position. The committee’s specific responses to each comment are available in the attached comment chart at pages 15–37.

Appearing on the next court day for missed payments. Forms TR-300 and TR-310 currently contain language requiring defendants who miss a payment to appear in court on the next court

day. The circulated forms² would have changed this language from mandatory to optional. They would have also added optional language to the back of the forms instructing defendants to contact the court as soon as possible after missing a payment. The committee had intended to provide two options from which the courts could select depending on their local practices.

One commenter expressed concern that the language on the front of the form instructing defendants to appear in court the next day might be inconsistent with a defendant's right to request an ability-to-pay determination. This objection applies regardless of whether this language is optional or mandatory. Another commenter suggested that the optional language on the back of the forms instructing defendants to contact the court as soon as possible after missing a payment was unnecessary in light of the language on the front requiring a defendant to appear in court the day after missing a payment.

The committee recommends removing entirely the current language on the front of forms instructing defendants to appear on the court date after missing a payment. Distinct from section 42003, sections 40510.5 and 42007 do not require that the defendant appear in court on the date that the installment payment plan is due if he or she cannot pay. (See Veh. Code, § 42003(a) ["A judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, *he or she shall appear in court on that date for further proceedings,*" italics added].) Because forms TR-300 and TR-310 provide for installment payment plans only under sections 40510.5 and 42007—not 42003—these forms do not need to provide this instruction to the defendant. To encourage defendants to return to court after missing any payments, the committee recommends including only the optional language on the back of the form that instructs defendants to contact the court as soon as possible after missing a payment.

Advisements on the right to an ability-to-pay determination. The circulated forms proposed language advising defendants that by entering into the installment payment agreement, they would be waiving the right to ask the court to consider their ability to pay. One commenter suggested placing this information on the front of the forms to provide enhanced notice to defendants.

While recognizing the importance of advising defendants that they would be waiving this right, the committee, on further reflection, decided against adding this particular advisement to the forms. The committee was concerned that this advisement might lead to confusion that a defendant was permanently giving up that right. Defendants do give up the right to request an ability-to-pay determination at the time they enter into the installment payment agreement, but

² All references to "circulated forms" refer to the proposed revisions to forms TR-300 and TR-310 that circulated for public comment during the second comment cycle.

they still retain the right to request an ability-to-pay determination at any time while the judgment remains unpaid.³

Although the committee decided against adding this advisement to the section on the waiver of rights, it retained the notice informing defendants that they have a right to request an ability-to-pay determination based on changed circumstances at any time before making the final payment. It declined to move this notice on ability to pay to the front of the forms because the front is already crowded with important information for the defendant, including the terms of the agreement and notices to the defendant regarding the potential consequences of failing to make a payment. Providing this notice on the back of the forms allows for the use of large font with greater white space, enhancing its readability.

Translation of forms. One commenter recommended translating the advisement of rights into the most common languages used in the issuing county. The committee recognizes the importance of increasing access to the courts for defendants who do not read English. The Language Access Planning Task Force has developed a Translation Protocol and a Translation Action Plan to assist the council in prioritizing the translation of Judicial Council forms and other materials. If approved by the council, these forms would be considered as part of that larger effort.

Description of charged offense and notice of collateral consequences. One commenter requested that section 1 on the forms not only cite to the statute that the defendant was charged with violating, but also provide a description of the offense. The commenter expressed concern that defendants would otherwise not understand the nature of the charges, and that the guilty plea and waiver of rights would not be knowing and voluntary. In addition, this commenter recommended including additional advisements to defendants of possible collateral consequences, including that a traffic conviction reported to the DMV may result in one or more negligent operator points on a defendant's driving record, may lead to difficulties obtaining driving-related employment, may subject defendants to higher car insurance rates, and may result in suspension of a defendant's driver's license if the defendant accumulates too many points within a specified period of time.

While the committee is sensitive to the commenter's concerns, it declined to pursue these suggestions. First, defendants generally enter into these installment agreements at the clerk's counter, and it is not feasible or appropriate for clerks to provide a description of the charged offense. If the defendant does not understand the charges, he or she should seek the advice of counsel or ask to appear before a judicial officer. Second, the committee decided against providing additional notice of collateral consequences to defendants on this form. The form is already crowded with important notices and advisements to the defendant regarding their rights

³ The committee has recommended a separate rules proposal based on Vehicle Code section 42003, which allows for defendants to request an ability-to-pay determination based on changed circumstances at any time during the pendency of the judgment. (Veh. Code, § 42003(e).)

and obligations under the installment payment agreement. In addition, several of the collateral consequences involve private industries (e.g., higher insurance rates and potential difficulties obtaining driving-related employment), which are outside of the purview of the Judicial Council or courts.

Suspending the base fine in whole. The advisement of rights on the circulated forms informs the defendant of the options available to a court if a defendant requests an ability-to-pay determination. These options include suspending the base fine in whole or part. One commenter recommended revising this language to reflect only that the fine may be suspended in part, not in whole, because it would be inappropriate to remove all penalties in adjudicating an infraction violation based on the financial status of the defendant. This commenter stated that individuals who violate the law should suffer some detriment.

The committee declined to revise the language as suggested. A judge may suspend the base fine in whole or part as an exercise of discretion. The purpose of the proposal is to provide greater notice to defendants of their rights, not to restrict judicial discretion. Moreover, even if a judicial officer were to suspend the full amount of the base fine, the defendant would still have to pay any mandatory fees required by statute.

Other comments. The circulated forms also advised defendants that they may be charged with a misdemeanor under section 40508 if they fail to complete their payment plan. Noting that a defendant may be charged with a misdemeanor or an infraction under section 40508, one commenter recommended revising the advisements to better track the statute. The committee agreed and incorporated the suggestion into this proposal.

Lastly, one commenter requested that the forms be revised to allow defendants to consent to automated call reminders, in addition to text messages and electronic notices. The committee agreed and incorporated this suggestion into the proposal.

Alternatives

In response to the council's directives to consider recommendations to promote access to justice in all infraction cases, the committee considered other alternatives such as legislative proposals. Those proposals, however, typically involve a lengthy process that must be pursued separately and have other implications that are distinct from the procedures addressed in an expedited fashion by the current proposal. The committee intends to separately consider recommendations to promote access to justice in future proposals.

Implementation Requirements, Costs, and Operational Impacts

The proposal expands the advisements of rights that courts provide to defendants in infraction cases. In expanding notice of their rights, it is foreseeable that more defendants will assert those rights by, for example, requesting an ability-to-pay determination. The committee expects that any such increase in requests for ability-to-pay determinations would, in turn, result in greater court operations and staffing costs. Moreover, to the extent that some courts may not currently

allow defendants to request an ability-to-pay determination after entering into an installment payment plan, this proposal, in conjunction with the separate rules proposal on ability to pay that the committee is presenting concurrently to the council, may result in greater court operations and staffing costs, and may require providing training for court staff and judicial officers regarding the processing of infraction cases. The committee is sensitive to the impact of these additional costs on courts. Nevertheless, it believes that, on balance, any increased burdens are outweighed by the resulting procedural fairness.

Attachments and Links

1. Judicial Council forms TR-300 and TR-310, at pages 11–14
2. Chart of comments, at pages 15–37

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> <h1 style="margin: 0;">DRAFT</h1>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
AGREEMENT TO PAY AND FORFEIT BAIL IN INSTALLMENTS (Vehicle Code, § 40510.5)	

TO BE COMPLETED BY THE COURT

Read carefully and, if you agree, sign and return the form to the clerk.

CITATION NUMBER:
CASE NUMBER:

1. I am the defendant in this case and I have been charged with the following infraction violation **(s)** of the Vehicle Code that **do** not require me to go into court:
 a. § _____ b. § _____ c. § _____ d. § _____ e. § _____
2. My court appearance date **or extension date** has not **passed**, and I am providing proof of correction for **any** correctable violations.
3. I want to pay and forfeit bail for the violation(s) listed above. I understand that the court does not have to allow me to make installment payments.
4. I understand that by signing below, each violation **that is reportable to the Department of Motor Vehicles (DMV) and has no proof of correction will be reported as a conviction.**
5. **TERMS OF THE AGREEMENT:**

Total bail (including penalties and administrative fee of \$ _____) is \$ _____

Initial Payment (10% minimum): \$ _____
 Remaining balance after first payment: \$ _____

() **I agree to pay the remaining balance in monthly installments of at least \$ _____ due on the _____ day of each month, starting on ____ / ____ / ____ and until paid in full on or before ____ / ____ / ____.**

() **Other (explain):** _____

I agree that: All payments must be made by the due date and there is no grace period.
 If I do not make a payment on time, I may have to pay the rest of my unpaid bail immediately.
 I understand that if I do not make the payment by each due date the court may:
Charge me with a failure to appear or pay under Vehicle Code section 40508.
 Charge a civil assessment of up to \$300 (Pen. Code, § 1214.1) or have a warrant issued for my arrest.
 Report the failure to pay to the **DMV**, which may **suspend or** place a hold on my driver's license.
 Assign my case to a collection agency or the State Franchise Tax Board for collection.

I understand that if I pay as agreed **and if any proof of correction has been filed with the court as required**, my bail forfeiture will be complete, and at that time, the case will be closed.

By signing below, I affirm that I have read, understood, and accepted the above terms and conditions. I also affirm that I have read and understood my rights printed on the reverse side, and that I choose to give them up.

(SIGNATURE OF DEFENDANT)	(DATE)	(TYPE OR PRINT NAME)
(DRIVER'S LICENSE/ID NUMBER)	(ADDRESS)	(CITY, STATE, AND ZIP CODE)
(TELEPHONE NUMBER)	<input type="checkbox"/> [I have provided a cellular phone number, and I authorize the court to send me SMS text messages or call reminders regarding payments that I owe under this agreement.] [Optional]	
(E-MAIL ADDRESS)	<input type="checkbox"/> [I have provided an e-mail address, and I authorize the court to send me electronic notices regarding payments that I owe under this agreement. [Optional.]	

CLERK OF THE SUPERIOR COURT

ACCEPTED (date): _____ BY: _____ (DEPUTY CLERK)

ADVISEMENT OF RIGHTS

By choosing to pay and forfeit bail in installments and not go into court, you will be giving up these rights:

- To appear in court without deposit of bail for formal arraignment, plea, and sentencing;
- To ask for community service (if available) instead of paying the total amount due;
- To request and have a court trial, to challenge the charges without deposit of bail, unless the court orders bail;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request.

[If you do not make a payment, please contact the court as soon as possible to make arrangements.]
[Optional]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT</h1>
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
AGREEMENT TO PAY TRAFFIC VIOLATOR SCHOOL FEES IN INSTALLMENTS (Vehicle Code, § 42007)	

TO BE COMPLETED BY THE COURT

Read carefully and, if you agree, sign and return the form to the clerk.

CITATION NUMBER:
CASE NUMBER:

- I am the defendant in this case. I have been charged with the following infraction violation(s) that do not require me to go into court and that are eligible for confidential conviction(s) for completion of traffic violator school:
 a. § _____ b. § _____ c. § _____ d. § _____ e. § _____
- My court appearance date or extension date has not passed, and I am providing proof of correction for any correctable violations.
- I want to pay the traffic violator school fees for the violation listed above. I understand that the court does not have to allow me to make installment payments.
- TERMS OF THE AGREEMENT:**
 The total fee (including an administrative fee of \$ _____) is \$ _____

Initial Payment (10% minimum): \$ _____
 Remaining balance after first payment: \$ _____

() I agree to pay the remaining balance within 90 days. I will pay in monthly installments of at least \$ _____ due on the ___ day of each month, starting on ___ / ___ / ___ and until paid in full on or before ___ / ___ / ___.

() Other (explain): _____

I agree that: All payments must be made by the due date and there is no grace period.
 If I do not make a payment on time, I may have to pay the rest of my unpaid fees immediately.
 I understand that if I do not complete my payment plan the court may:
 Charge me with a failure to pay under Vehicle Code section 40508.
 Charge a civil assessment of up to \$300 (Pen. Code, § 1214.1) or have a warrant issued for my arrest.
 Report convictions and the failure to pay to the Department of Motor Vehicles, which may suspend or place a hold on my driver's license.
 Assign the case to a collection agency or the State Franchise Tax Board for collection.
 I understand that my case will continue to be open until the date that my last installment is paid. If I pay as agreed and if my proof of completion of traffic school is reported, a confidential conviction will be reported to the DMV and no further proceedings will be held.

By signing below, I affirm that I have read, understood, and accepted the above terms and conditions. I also affirm that I have read and understood my rights printed on the reverse side and that I choose to give them up.

(SIGNATURE OF DEFENDANT)	(DATE)	(TYPE OR PRINT NAME)
(DRIVER'S LICENSE/ID NUMBER)	(ADDRESS)	(CITY, STATE, AND ZIP CODE)
(TELEPHONE NUMBER)	<input type="checkbox"/> [I have provided a cellular phone number, and I authorize the court to send me SMS text messages or call reminders regarding payments that I owe under this agreement.] [Optional]	
(E-MAIL ADDRESS)	<input type="checkbox"/> [I have provided an e-mail address, and I authorize the court to send me electronic notices regarding payments that I owe under this agreement.] [Optional]	

CLERK OF THE SUPERIOR COURT

ACCEPTED (date): _____ BY: _____
(DEPUTY CLERK)

ADVISEMENT OF RIGHTS

By choosing to pay traffic violator school fees in installments and not go into court, you will be giving up these rights:

- To appear in court **without deposit of bail** for formal arraignment, plea, and sentencing;
- **To ask for community service (if available) instead of paying the total amount due;**
- **To request and have a court trial, to challenge the charges without deposit of bail, unless the court orders bail;**
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses testifying under oath against you; and
- To remain silent and not testify.

At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total amount due, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request. If the court grants your request, you may no longer be eligible for traffic school.

[If you do not make a payment, please contact the court as soon as possible to make arrangements.]
[Optional]

SP16-09

Revise forms TR-300 and TR-310

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	<p>ACLU of California By Christine P. Sun Micaela Davis</p> <p>A New Way of Life Reentry Project By Theresa Zhen</p> <p>Lawyers’ Committee for Civil Rights of the San Francisco Bay Area By Elisa Della-Piana</p> <p>Bay Area Legal Aid By Rebekah Evenson</p> <p>Bay Area Legal Aid By Stephen Bingham Retired Attorney</p> <p>Western Center on Law and Poverty By Antionette Dozier</p> <p>Legal Services for Prisoners with Children By Brittany Stonesifer</p> <p>East Bay Community Law Center By Brandon Greene</p> <p>USC Gould School of Law By Clare Pastore</p> <p>Neighborhood Legal Services of Los Angeles County by Eliza Schafler</p>	N/I	<p>Revised Forms TR-300 and 310</p> <p><u>TR-300 – Agreement to Pay and Forfeit Bail in Installments</u></p> <p>We are pleased to see that the Committee has expanded the information in the bail forfeiture in installments form TR-300’s waiver of rights. Whereas the first version of the proposed rule informed defendants that they would be waiving their rights to an ability to pay determination and to request community service, the new version also informs defendants that if they have experienced a change in financial circumstances at any point before final payment, they may request the court consider their ability to pay, after which the court may modify the plan, suspend all or part of the fine or convert some of the fine to community service. Proposed TR-300 Advisement of Rights. However, as we stated in our previous comments, in order to provide clear notice to the defendant, the information about ability to pay determinations should be included on the face of the installment form itself, in addition to being included in the Advisement of Rights.</p> <p>The form should also be revised to comport with Proposed Rule 4.106(e), subject to our comments to that rule. That rule explicitly gives defendants the right to request an ability to pay determination upon a missed payment. And our</p>	<p>The committee appreciates the input provided by these organizations.</p> <p>The committee declines to pursue this suggestion. The committee has deleted the advisement that by entering into an installment agreement, a defendant would be giving up the right to an ability to pay determination. The committee was concerned that this change would imply that a defendant was permanently giving up that right, which is inconsistent with the currently-pending proposal to adopt rules 4.106, 4.107, and 4.335.</p> <p>The bottom of the advisement of the form still contains information about ability-to-pay determinations. The committee declines the suggestion to move this advisement to the front of the form. The front of the form is already crowded with important information for the defendant. It contains the terms of the agreement and notices to the defendant regarding the potential consequences of failing to make a payment. Providing for this advisement on the back of the form allows for the use of large font with greater white space, enhancing its readability for defendants.</p> <p>Distinct from Vehicle Code section 42003, sections 40510.5 and 42007 do not require that the defendant appear in court on the date that the installment payment plan is due if he or she cannot pay. (Cf. Veh. Code, § 42003(a) [“A</p>

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			<p>comments to that rule would provide notice to a defendant of that right upon a missed payment and give the defendant a reasonable time to correct or request modification. The provisions set forth in the rules and our comments are inconsistent with TR-300’s provisions that all payments must be made on time with no grace period, that failure to make one payment may result in the total amount being due, and that the defendant must see the clerk the day after a missed payment. These provisions should be stricken from the form to cohere with the other proposed rules and the guiding principle of flexibility that must be applied to installment plans.</p> <p>With respect to fees, although the statute requires a defendant pay administrative costs associated with the installment plan, we recommend that the Judicial Council require the court to waive these fees. Strapping more debt onto defendants with limited means is harmful and counterproductive.</p> <p>Finally, we are pleased to see that the Committee has proposed including spaces on the form where a defendant can submit her cell phone and/or email for SMS or email notification about installment payments. This type of electronic notification system should be expanded in the court system, including on the traffic ticket itself, to help ensure that transient</p>	<p>judgment granting a defendant time to pay the fine shall order that if the defendant fails to pay the fine or any installment thereof on the date that it is due, <i>he or she shall appear in court on that date for further proceedings,</i>” italics added].) Because forms TR-300 and TR-310 provide only for installment payment plans under sections 40510.5 and 42007, not 42003, these forms do not need to provide this instruction to the defendant. Accordingly, the committee agrees and has removed from the form the language notifying the defendant that he or she must see the clerk on the day after the due date of the missed payment. The committee declines to remove the other provisions as requested. The potential consequences of failure to pay provide defendants with notice.</p> <p>The committee declines to pursue this suggestion. To the extent fees are mandated by statute, this change would require legislative action.</p> <p>The committee declines to pursue these suggestions at this time because they are outside the scope of this forms proposal, but may consider these suggestions in developing future proposals, or in revising forms, such as the <i>Notice to Appear</i> forms.</p>

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			<p>or homeless individuals actually receive follow-up notices from the court.</p> <p><u>TR-310 – Agreement to Pay Traffic Violator School Fees in Installments</u></p> <p>The same comments for TR-300 apply here.</p> <p>Critical Areas for Further Reform</p> <p><u>Procedure for notifying defendant of charges and options</u></p> <p><i>First</i>, as discussed above, it is our understanding that many people never receive the courtesy notices mailed by the court. In addition to our suggestions above about mailing notices via certified mail, because many of our clients do not have stable housing, we also recommend that the courts implement an electronic notification system whereby courtesy notices or reminders about courtesy notices be sent by the court via text message and email, in addition to being sent via regular mail.⁶ The text or email alert could inform a person of the due date of their ticket, amount of the ticket, and direct them to contact the court to find out how to dispose of the ticket. An email alert could include additional attached information, such as the courtesy notice in its entirety. We were pleased to see the addition of an SMS and email notification system added to form TR-300 and hope that it can be expanded to this context. Since not all defendants will have text and email</p>	<p>Please see responses above.</p> <p>The committees have revised proposed rule 4.107 to expand procedures for sending mandatory reminder notices electronically. The committee declines to pursue the other suggestions at this time because they are outside the scope of this forms proposal. However, the committee may consider these suggestions in developing future proposals, or in revising forms, such as the <i>Notice to Appear</i> forms.</p>

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			<p>capability, it is important for the court to continue to send the notices by regular mail as well.</p> <p>[Footnote in original]⁶ It is our experience that some courts presume that having a car indicates a certain level of wealth and therefore that someone cited for a moving violation cannot be homeless. We note that there are many individuals who are homeless, despite owning a car, and also that there many instances in which a person may be cited for a moving violation while driving a friend or family member’s car. Moreover, even if the link between driving and homelessness were true, we note that the traffic court procedures discussed in this letter are equally applicable to citations issued to pedestrians for non-driving-related infractions.</p> <p><i>Second</i>, the Judicial Council must address the issues with court delay in processing traffic citations. It is our understanding that in many counties there is a lengthy delay in the time it takes between the citation being issue and the court registering the citation in its system. This results in scenarios where a person comes to court or otherwise tries to address their citation, but is told that their citation is not yet in the system. This can occur both when a person tries to appear or address the citation before the date listed on the citation and when the person comes on the day specified by the citation. A traffic</p>	

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			<p>court defendant who must check back multiple times is more likely to end up missing a payment or appearance. It is especially egregious for a person to be penalized for a failure to pay or appear in this situation, where the person clearly exercised due diligence in disposing of the ticket.</p> <p><u>Notice to Appear forms</u></p> <p>The Judicial Council must improve notice procedures at a traffic defendant’s point of entry into the system – when the person is first cited for an infraction. As we have stated in previous comments, the Judicial Council should itself use its authority under Vehicle Code § 40500(b) to modify its standard Notice to Appear forms to include a notification of the right to a judicial determination of ability to pay, the options available to those who can’t afford to pay, and a warning that a person’s driver’s license may be suspended or other sanctions may be imposed for non-payment unless the court determines that the person does not have the ability to pay.</p> <p>We also suggest that the amount of the fine be included on the ticket itself. The base fines and fees for all of the infraction offenses are readily available in the Judicial Council’s Uniform Bail Schedule and the citing officer should be required to list the infraction’s amount on the Notice to Appear. Doing so would provide more immediate and adequate notice to the defendant and would at least provide the defendant with</p>	

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			<p>basic information in the event she does not receive a courtesy notice.</p> <p>Upon implementing a text message and email notification procedure, the Judicial Council must modify the Notice to Appear citation forms to enable the citing officer to enter a current phone number and/or email address for the defendant, if the defendant wishes to provide that information. The form should also contain a place for the individual to note if she is unlikely to receive mail at the address listed, because it is not a permanent address or not stable for any reason.</p> <p>Finally, in addition to changing the Notice to Appear form, a procedure should be put in place whereby the citing officer gives out information on how to obtain an ability to pay determination, the alternatives available to those on public benefits and with low incomes who cannot pay in full and instructions on how to access language translation services.</p> <p><u>Trial in Absentia</u></p> <p>It is imperative that the Judicial Council address the due process violations inherent in finding people guilty in absentia. Many courts use this process to turn open cases into convictions, using the fiction that the defendant has chosen a trial by written declaration. Though the statutory authority for this practice is broad under Vehicle Code § 40903, we urge the Judicial Council to</p>	

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			<p>carefully consider the constitutional and practical implications of this practice—particularly without clear procedures for overturning these convictions—and consider prohibiting or severely limiting its use.</p> <p>We thank the Committee for the opportunity to comment on these proposed rules. As noted, these comments are not exhaustive and we welcome the opportunity to work with the Committee to further improve court practice around imposition of fines and fees.</p>	
2.	<p>Advisory Committee on Providing Access and Fairness By Hon. Kathleen E. O’Leary Cochair</p> <p>Hon. Laurie D. Zelon Cochair</p>	A	<p>The Advisory Committee on Providing Access and Fairness (PAF) is committed to addressing issues of access to the courts and fairness in the court system. PAF understands that there are complicated and intersecting issues involving California’s fines and fees, low-income families, and communities of color. Many of the people coming into traffic court do not have attorneys and it can be difficult for them to understand and move through the traffic court process.</p> <p>PAF has been collaborating with the Traffic and Criminal Law Advisory Committees on strategies to improve access <i>and</i> fairness for Californians in traffic court. PAF provided input during the development of proposal number SP16-08 and is supportive of that proposal. SP16-09 and SP16-10 take additional, important steps toward improving access <i>and</i> fairness for traffic court litigants. PAF looks forward to continued collaboration with the Traffic and</p>	<p>The committee appreciates the input provided by the Advisory Committee on Providing Access and Fairness.</p>

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			Criminal Law Advisory Committees.	
3.	California Commission on Access to Justice State Bar of California By Hon. Mark A. Juhas Chair	N/I	The Access Commission supports the revision of the traffic infraction installment payment forms to provide information about payment alternatives and community service options, as well as standardize court procedures, making the process fairer for low income Californians. We recommend that the “Advisement of Rights” be translated into the most common languages, other than English, in the county.	The committee appreciates the input provided by the California Commission on Access to Justice. The committee recognizes the importance of increasing access to the courts for defendants who do not read English. The Language Access Planning Task Force has developed a Translation Protocol and a Translation Action Plan to assist the council in prioritizing the translation of Judicial Council forms and other materials. If approved by the council, these forms would be considered as part of that larger effort.
4.	Hon. Christine Copeland Commissioner Superior Court of California, Santa Clara County	A	As to the procedures and changes to TR-310, it would help to have guidance and even a CRC or legislation re: (1) If a court is required to offer, as an option, monthly payments for traffic school; (2) A court’s ability (or lack thereof) to order monthly payments for traffic school if a defendant is appearing at an arraignment or trial. VC42007 and form TR-310 envision a defendant waiving arraignment and entering into a monthly payment plan with the clerk re: monthly payments for traffic school. However, the statutory framework leaves open whether a court, if it orders monthly payments for traffic school, must follow the same scheme (10%	The committee appreciates the court’s input. Form TR-310 does not require that a court offer installment payment plans for paying the traffic violator school fee. However, if the court does offer installment payment plans, the use of this form is mandatory. Form TR-310 addresses only the installment payment agreements entered into at the clerk’s counter. The application of Vehicle Code section 42007 in other contexts is outside the scope of this proposal.

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			down, then remainder of the amount due in 3 installments), or if it has discretion to grant or deny monthly payments to begin with.	
5.	Albert De La Isla Principal Administrative Analyst West Justice Center Superior Court of California, Orange County	N/I	<p>[Form TR-300: I have provided a cellular phone number, and I authorize the court to send me SMS text messages regarding payments that I owe under this agreement. I authorize the court to send me electronic notices regarding payments that I owe under this agreement.]</p> <p>Should also include automated call reminders, not just text messages.</p> <p>[Form TR-300: “I authorize the court to send me electronic notices regarding payments that I owe under this agreement.”] [Optional]”]</p> <p>Should say something like:</p> <p>I have provided an e-mail address and I authorize the court to send me. . . .</p> <p>Consistency</p> <p>[Form TR-300: “To ask for community service instead of paying the total fine; To ask the court to consider your ability to pay in determining the fine, penalties, and fees for the case;”]</p> <p>At this stage, it is not a fine, it is a bail amount due that they are forfeiting without a court appearance. Need clarification there.</p>	<p>The committee appreciates Mr. De La Isla’s input.</p> <p>The committee agrees and has incorporated the suggestion into the proposal.</p> <p>The committee agrees and has incorporated the suggestion into the proposal.</p> <p>Penal Code section 1209.5 authorizes a defendant charged with an infraction to ask for community service in lieu of the total fine. The statute defines “total fine” as the “base fine and all assessments,</p>

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	Commentator	Position	Comment	Committee Response
			<p>Same on the previous advisement.</p> <p>[Form TR-300: “At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service instead of paying the total fine, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request.”]</p> <p>Same comment here, this is not a fine at this time.</p> <p>[Form TR-300: “[If you do not make a payment, please contact the court as soon as possible to make arrangements.] [Optional]”]</p> <p>Should be removed as this is already stated on the 1st page.</p> <p>[Form TR-310: “[I have provided a cellular phone number, and I authorize the court to send me SMS text messages regarding payments that I owe under this agreement.] [Optional]”]</p> <p>Should also state that they authorized automated call reminders as well.</p>	<p>penalties, and additional moneys to be paid by the defendant.” Nevertheless, the committee agrees that the reference to a fine may be confusing and has revised the form to refer to “total amount due.”</p> <p>Please see the response above.</p> <p>Because the committee has removed the notice to the defendant to see the clerk the day following a missed payment, it declines the suggestion to remove this language on the back of the form.</p> <p>Please see the response above.</p>

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	Commentator	Position	Comment	Committee Response
			<p>[Form TR-310: “[I authorize the court to send me electronic notices regarding payments that I owe under this agreement.] [Optional]”]</p> <p>I have provided an e-mail address and I authorize the court to send me. . . .</p> <p>Consistency</p> <p>[Form TR-310: “To ask the court to consider your ability to pay in determining the fee for traffic violator school and the fine, penalties, and fees for the case; To ask for community service instead of paying the total fine;”]</p> <p>It is not a fine.</p> <p>[Form TR-310: “At any time before your final payment, if you have experienced a change in financial circumstances, you may ask that the court consider your ability to pay. If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service instead of paying the total fine, or suspend all or part of the fine. The court is not required to offer you any of the above options, and the court may deny your request. If the court grants your request, you may no longer be eligible for traffic school.”]</p> <p>Not a fine.</p>	<p>Please see the response above.</p> <p>Please see the response above.</p> <p>Please see the response above.</p>

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6.	Robert M. Hertzberg Senator, 18th Senate District	N/I	<p>I appreciate the opportunity to comment on the proposed rules related to traffic criminal procedures, notices, and fees. It is encouraging to see continued work by Judicial Council to make rules of the court easier for individuals to seek remedies and to make amends for vehicle violations.</p> <p>I reviewed the three traffic proposals, and generally appreciate the clarity of notices, timeliness, standardization, and attempts to move certain actions online. It is a great frustration that county courts have different rules and forms, not to mention the near-total lack of online uniformity and access to county courts. These proposals will make it clearer to all Californians what their rights are and how to seek fee waivers or ability to pay determinations and will take a modest, but important, step toward modernizing the courts.</p> <p>These proposals will hopefully reduce the crushing burden of fines and fees for low income individuals by facilitating ability to pay determinations and fee waivers. The modest online tool for requesting a payment plan should be mandatory, not optional, for each of the 58 courts. These are important, if small, steps in the right direction.</p> <p>Unfortunately, the proposals do nothing to eliminate the widespread use – and abuse – of the license suspensions to collect-court ordered debt. The United States Department of Justice</p>	<p>The committee appreciates Senator Hertzberg’s input. The committee declines to pursue these suggestions at this time because they are outside the scope of this forms proposal. The committee may consider these suggestions in drafting future legislative proposals.</p>

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			<p>indicated last year that this practice is of questionable constitutionality. Years ago, license suspensions may have seemed like a useful tool for collection court-ordered debt, but now we know the negative impact it has on millions of Californians.</p> <p>The fact is, a suspended license means lost income, lost employment, and generally increases the burden of poverty. It’s much harder to get childcare, education, and work without transportation. And state data shows that the tool unfairly burdens communities of poverty and color.</p> <p>This is an issue about which I am passionate. I have carried several pieces of legislation over last two years addressing injustice. And until we start using better, fairer, punishments that more closely fit the nature of these crimes (i.e., minor traffic offenses), we will not have the fair justice system that Californians deserve.</p>	
7.	<p>Legal Aid Foundation of Los Angeles By Yolanda C. Arias Managing Attorney</p>	N/I	<p>Forms TR-300 and TR-310 should include the description of the offense in Paragraph 1.</p> <p>Due to the complex nature of the Vehicle Code and the Penal Code, we recommend that Paragraph 1 on Forms TR-300 and TR-310 include a description of the offense along with the section the defendant was charged with. Most members of the public are not familiar with the various violations one can be charged with in traffic court, and it is unlikely that they will be able to identify the alleged offense</p>	<p>The committee appreciates the input of the Legal Aid Foundation of Los Angeles.</p> <p>The committee declines to pursue this suggestion. Defendants generally enter into these installment agreements at the clerk’s counter, and it is not feasible or appropriate for clerks to provide a description of the charged offense. If the defendant does not understand the charges, he or she should seek the advice of counsel or ask to appear before a judge.</p>

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			<p>solely based on the statutory section. We are concerned that without a description of the charged offense, many individuals will not understand the nature of the charges they are admitting guilt to.</p> <p>Under these circumstances, it cannot be said that they are knowingly and voluntarily waiving their rights when they enter into these payment agreements. We ask that the Judicial Council include a description of the offense in order to ensure that all traffic court litigants are fully informed before they waive their rights.</p> <p>Form TR-300 should include an advisement of the collateral consequences of admitting guilt to a traffic infraction.</p> <p>Form TR-300 currently includes an advisement that by completing the payment agreement form, all reportable violations will be reported to the Department of Motor Vehicles as convictions. However, the statement does not include the collateral consequences of having those offenses reported as convictions. In order to fully advise individuals of the rights they are forfeiting, we recommend that the form state, in the “Advisement of Rights” section, that having a traffic infraction conviction reported to the DMV may result in one or more negligent operator points on one’s driving record, can lead to difficulty obtaining driving-related employment, subjects drivers to higher car insurance rates, and can even result in a driver's</p>	<p>The committee declines to pursue this suggestion. The form is already crowded with important notices and advisements to the defendant regarding their rights and obligations under the installment payment agreement. Furthermore, several of these collateral consequences involve private industries (higher insurance rates, difficulty obtaining driving-related employment), which are outside of the purview of the Judicial Council or courts.</p>

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			<p>license suspension if a driver accumulates too many points within a specified period of time.</p> <p>The Judicial Council should recommend a stakeholder review process for development and review of notices, instructions and forms.</p> <p>The development of easy to read and language accessible notices, instructions and forms will be critical to the success of these reforms. There are stakeholders throughout the state that have experience with the barriers defendants face in dealing with traffic infraction cases. The Judicial Council should recommend or institute a stakeholder review process whereby legal advocates, LAFLA Comments to Judicial representatives from community based organizations and other stakeholders would provide input into the readability and language compliancy of the information being disseminated to the public.</p> <p>As indicated above, LAFLA is pleased to see these very necessary reforms being made and is grateful.</p>	<p>The Judicial Council’s process for developing rules and forms includes a public comment period, which is intended to provide an opportunity for stakeholder input. Stakeholders are invited to submit specific recommendations for changes to the circulated proposals.</p> <p>The specific suggestion to implement a new stakeholder review process is beyond the scope of the present proposal, but may be referred to the council’s Rules and Projects Committee for consideration.</p>
8.	<p>Superior Court of California, El Dorado County By Jackie Davenport Assistant Court Executive Officer</p>	N	<p>Please see El Dorado Court’s comments to the proposed rule changes. We disagree with the proposals to allow a defendant to request ability to pay determinations/hearings and therefore disagree with the proposed language to allow a defendant to request a determination on ability to pay any time before the final payment.</p>	<p>The committee appreciates the court’s input. While this proposal does notify defendants of their right to request an ability-to-pay determination, the court’s comments are directed primarily to proposed rule 4.335’s ability-to-pay provisions. Proposed rule 4.335 circulated concurrently with this forms proposal, and the committee has provided specific responses to the court’s concerns in the comment chart attached to</p>

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9.	Superior Court of California, Los Angeles County	AM	<p>On both forms we suggest changing line 2. from:</p> <p>“My court appearance date has not passed,...”</p> <p>to</p> <p>“My court appearance or extension date has not passed,...”</p> <p>Also, we propose removing the reference to a “misdemeanor” Vehicle Code section 40508 as reflected under “5. Terms of Agreement,” about 2/3rds of the way down the page on both forms TR-300 and TR-310. A Vehicle Code section 40508 charge can be added as either a misdemeanor or an infraction, and therefore we recommend rewording that line to allow courts the flexibility to charge as either.</p> <p>Suggested change:</p> <p>“Charge me with a misdemeanor under Vehicle Code section 40508.”</p> <p>to</p> <p>“Add an additional charge under Vehicle Code section 40508.”</p> <p>Request for Specific Comments:</p>	<p>the council report for that proposal.</p> <p>The committee appreciates the court’s input. It agrees with this suggestion and has incorporated it into the proposal.</p> <p>Because a defendant may be charged with an infraction or a misdemeanor under Vehicle Code section 40508, the committee agrees with this suggestion and has incorporated it into the proposal.</p>

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			<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? <p>No comment.</p> <ul style="list-style-type: none"> • Are there any additional forms, procedures, instructions or advisements that should be added to the proposal. <p>No comment.</p> <ul style="list-style-type: none"> • Would the proposal provide a cost savings? <p>No.</p> <ul style="list-style-type: none"> • Would the proposal increase costs? <p>Yes.</p> <p>Major Costs to CMS for implementation and programming due to possible ability to pay hearings:</p> <p>1. The court would have to create at least two hearing types to define what stage the defendant is requesting the ability to pay hearing. If made prior to a failure to pay status, the costs have to be covered by operations. If the case has already been referred to collections, then the costs could be recoverable as a collections issue.</p> <p>2. Additional costs would be incurred by updating our current forms to conform to the</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>The additional anticipated costs and burdens identified by the court appear to primarily be a result of proposed rule 4.335 on ability-to-pay determinations. To the extent that these forms are implicated, it would be because the forms give defendants notice that they may request an ability-to-pay determination while the installment payment plan remains pending.</p>

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			<p>latest JC version for printed and imaged use.</p> <p>3. Programming would be needed for new rulings, change of bail amounts, calendaring, and notices for rulings.</p> <p>4. Interface programming would be needed to update bail amounts as they change in ETRS and PRD.</p> <p>5. Programming would be needed to interface with GC Services systems, so that cases referred to collections can be set on the court’s calendar for an ability to pay hearing. Cases may need to be returned to GCS after the hearing.</p> <p>▪ Operational Costs:</p> <p>1. Costs for processing the initial requests would be negligible, since our Court already provides the program. If the Judicial Council mandated the payment plan for traffic school, costs would increase temporarily because the program would have to be developed and implemented.</p> <p>2. For our court, the process has been established and has been fairly successful. Minor additional training would be needed.</p> <p>3. Staffing increases for calendaring the new hearing types, providing notice of rulings, and cashiering could be incurred.</p>	<p>Form TR-310 does not require that a court offer installment payment plans for paying the traffic violator school fee. However, the use of this form is mandatory if the court does offer installment payment plans for the traffic violator school fee entered into at the clerk’s counter.</p>

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			<p>• What would be the implementation requirements be for courts?</p> <p>Would include:</p> <ul style="list-style-type: none"> ▪ CTS – Programming updates to the existing form, development of new hearing types, calendaring, financial interface and changes to the bail amount. Integration with GC Services. ▪ Operational Implementation – Procedure development and training. ▪ Possible dedication of specific courtrooms to hear the ability to pay hearings. <p>• Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>No. Since our resources are divided between the new CMS and other issues, we may need more time to implement.</p> <p>• How well would this proposal work in courts of different sizes.</p> <p>No comment.</p>	<p>Because the committee recognizes that some courts may need additional time to implement this proposal, it has recommended an extended implementation date. Specifically, courts are urged to implement this proposal as soon as reasonably possible, but no later than May 1, 2017.</p> <p>No response required.</p>
10.	Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, Joint Rules Subcommittee	AM	<p>General Comment:</p> <p>1. The JRS <i>strongly</i> recommends that the</p>	<p>The committee appreciates the input of the Joint Rules Subcommittee.</p> <p>Because the committee recognizes that some</p>

SP16-09

Revise forms TR-300 and TR-310

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>effective date of the revised forms discussed in this proposal be changed to July 1, 2017 to provide the trial courts with additional time to successfully and comprehensively implement this and the other urgent traffic proposals. While the JRS appreciates the authoring committees adjusting their timeline to present at the October 2016 Judicial Council business meeting so that the trial courts would have two months to implement, doing so would not actually give the courts two full months for implementation. After taking into consideration the four court holidays and additional time that court staff will take for vacation during November and December, the courts will have significantly less than two full months for implementation.</p> <p>Also, accurate and comprehensive implementation will require more than two months for most trial courts and, especially so, for the smaller courts. An implementation period of less than two months creates significant challenges and burdens for courts of all sizes. For smaller courts, the following changes were specifically identified:</p> <ul style="list-style-type: none"> • Smaller courts do not have internal technology staff to assist in making changes to forms or case management systems. It would be costly to expect any vendors to quickly expedite any changes including necessary programming modifications. 	<p>courts may need additional time to implement this proposal, it has recommended an extended implementation date. Specifically, courts are urged to implement this proposal as soon as reasonably possible, but no later than May 1, 2017.</p>

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			<ul style="list-style-type: none"> • Small court management teams may only consist of two to three individuals (at best) that need additional time to develop processes and appropriate training for staff in and out of the courtroom. Those same individuals are also responsible for attempting to work with technology vendors to implement changes on courtesy notices, programming, and in-house forms. • Increased costs that have not been built into the 2016-17 budget allocations. • Significant costs for printing, postage and mailing. • Increased costs for related vendor services. • Increased staff workload to process notices, applications, hearing requests, other new requirements. • Additional costs and time associated with the modification of case management systems. <p>While the JRS sees the urgency in modifying the rules of court and related forms, it strongly recommends the implementation date be changed to July 1, 2017 so that the courts have the ability to implement the changes accurately and effectively.</p> <p>Suggested Modification:</p> <ol style="list-style-type: none"> 1. Regarding the “Advisement of Rights” section of forms TR-300 and TR-310, the JRS recommends adding “(if available)” 	<p>The committee agrees and has incorporated this suggestion into the form.</p>

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			<p>and replacing “suspend all” with “reduce” as indicated by the highlighted text below:</p> <p><u>To ask for community service (if available) instead of paying the total fine;</u></p> <p><u>...If the court considers your ability to pay, the court may modify your installment plan, allow you to complete community service (if available) instead of paying the total fine, or suspend all or reduce part of the fine.</u></p> <p>Some trial courts do not offer community service. By adding “if available” as indicated above, the revised forms would be more clear in conveying that the courts are not mandated to provide community service as an alternative to payment.</p> <p>The JRS recommends eliminating references to suspension of the entire fine because it believes that it would be inappropriate to remove all penalties in adjudicating an infraction violation based on the financial status of the defendant. One who has been adjudicated to have violated the law should suffer some detriment, even if, based on the defendant’s financial circumstances, it is appropriate to reduce the penalty to a nominal amount in one payment or over time, or to order community service.</p>	<p>In exercising discretion, a judge may suspend the base fine in whole or part. These forms are intended to correspond with the exercise of judicial discretion. However, even if a judge were to suspend the full amount of the base fine, the defendant would still have to pay any mandatory fees required by statute.</p>

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	Commentator	Position	Comment	Committee Response
11.	Michele Verderosa Superior Court of California, Lassen County	N		No response required.