



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No. 23-039

For business meeting on September 19, 2023

Title

Trial Courts: Report of Determinations
Affecting Voting Rights

Rules, Forms, Standards, or Statutes Affected

Adopt Cal. Rules of Court, rule 10.970;
adopt form MC-600; approve form
MC-600A

Recommended by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-Soon Lee, Chair
Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Agenda Item Type

Action Required

Effective Date

January 1, 2024

Date of Report

July 28, 2023

Contact

Corby Sturges, 415-865-4507
corby.sturges@jud.ca.gov
Sarah Fleischer-Ihn, 415-865-7702
Sarah.Fleischer-Ihn@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee and the Criminal Law Advisory Committee recommend one rule of court and two forms to implement Assembly Bill 2841, which requires the trial courts to report to the Secretary of State judicial determinations under Elections Code sections 2208–2211 disqualifying a person from voting or restoring a person’s right to register to vote. The legislation expressly required the Judicial Council to adopt rules and forms, including a mandatory form for the courts to use to furnish the required reports.

Recommendation

The Probate and Mental Health Advisory Committee and the Criminal Law Advisory Committee recommend that the Judicial Council, effective January 1, 2024:

1. Adopt California Rules of Court, rule 10.970 to specify a process for the trial courts to use to submit to the Secretary of State the reports required by Elections Code section 2211.5;

2. Adopt *Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600) for mandatory use to submit to the Secretary of State the reports required by section 2211.5; and
3. Approve *Attachment to Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600A) for optional use to submit the information required by section 2211.5(a)(1) and (b).

The recommended rule and forms are attached at pages 7–9.

Relevant Previous Council Action

The Judicial Council has never taken formal action relevant to this report. In 2016 and 2017, however, representatives of the Court Executives Advisory Committee and Judicial Council staff worked with the California Secretary of State’s staff to implement the reporting requirements in Elections Code sections 2208–2211.¹ In April 2017, a letter from the Secretary of State containing the final protocols, information requirements, and sample forms was transmitted to the trial courts. Courts have followed those protocols and requirements since then.

Analysis/Rationale

Effective January 1, 2023, and operative January 1, 2024, Assembly Bill 2841 (Stats. 2022, ch. 807) codified many of the requirements in the Secretary of State’s 2017 letter. AB 2841 also made a few notable changes. First, the legislation changes, from one case at a time to once a month, the required frequency of the reports of the disqualification of a person from voting or the restoration of a person’s right to register to vote, though it authorizes the court clerk to report more frequently. (§ 2211.5(a).) Second, AB 2841 shifts responsibility for notifying county elections officials of judicial determinations under Elections Code sections 2208–2211 away from the court clerk to the Secretary of State. (§ 2211.5(d)(2).) Beginning January 1, 2024, the court will be required to report those determinations only to the Secretary of State.

Background

Section 2208 establishes a presumption that a person is competent to vote regardless of conservatorship status. (§ 2208(a).) A person is deemed mentally incompetent and, therefore, disqualified from voting if a court finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process *and* takes one of following actions:

- Appoints a probate conservator of the person or the person and estate (Prob. Code, § 1800 et seq.);

¹ All subsequent statutory references are to the Elections Code unless otherwise specified. These requirements were enacted by Senate Bill 589 (Stats. 2015, ch. 736) and Assembly Bill 1020 (Stats. 2015, ch. 728) and remain operative until January 1, 2024.

- Appoints a conservator of the person or the person and estate under the Lanterman-Petris-Short (LPS) Act (Welf. & Inst. Code, § 5350 et seq.);
- Appoints a conservator under the LPS Act for the person, who has been found incompetent to stand trial and whose trial has been suspended under Penal Code section 1370 (see *id.*, § 5352.5); or
- Finds the person not guilty by reason of insanity and deems the person “gravely disabled” because of chronic alcoholism or substance abuse. (Pen. Code, § 1026; see Welf. & Inst. Code, §§ 5008(h)(2), 5342.)

(Section 2208(a)(1)–(4).)

New requirements

AB 2841 also imposed two new reporting requirements on the court clerk. The clerk must certify, if applicable, that the person has been disqualified based on a finding, by clear and convincing evidence, that the person “cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.”² This determination applies to disqualifications ordered under sections 2208 and 2209 (disqualification when or after a probate conservatorship is established) and to contests under section 2210 (challenges to disqualification in LPS).³ It does not, however, apply to disqualifications under section 2211 (disqualification due to involuntary confinement at a state hospital for specific commitment types).⁴

In addition to the judicial determinations under sections 2208–2211 since the clerk’s most recent report, the clerk must also report the total number of proceedings in the court during that period in which the court took one of the actions under section 2208(a)(1)–(4), described above.

The committee intends the recommended rule and forms to fulfill the statutory mandate for the Judicial Council to adopt rules of court to implement section 2211.5 and forms to be used by the

² Section 2208(a) (language of finding), section 2211.5(b)(6) (certification requirement); see section 2209(a)–(c). Certification would be applicable in a particular case if two conditions were satisfied: (1) the law required the court to have made the finding and (2) the order on file indicated that the court actually made the finding in that case. If either of these conditions is not satisfied, the clerk’s certification would not apply to that case.

³ Section 2209 requires the court investigator to review a probate conservatee’s capability of communicating, with or without reasonable accommodations, a desire to participate in the voting process at each regular review and to determine whether the conservatee’s capability has changed. If the investigator determines that the capability has changed, the court must hold a hearing to determine whether, by clear and convincing evidence, the conservatee cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process and either disqualify the conservatee from voting or restore the conservatee’s right to register to vote. Under section 2210, the right of an LPS conservatee to register to vote is restored automatically when the conservatorship terminates after one year; it may also be restored by court order if the conservatee successfully challenges the disqualification or petitions the court to terminate the conservatorship.

⁴ Section 2211(a). This statute requires any person who has been found not guilty by reason of insanity, found incompetent to stand trial, found to be a mentally disordered sex offender, or convicted of a felony and sent to a state hospital for treatment to be disqualified from voting when subject to involuntary confinement. The right to register to vote is restored when the person is released. Section 2211(c).

courts to report the information required by section 2211.5 to the Secretary of State.⁵ Recommended rule 10.970 specifies that courts are required to use *Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600) to submit the reports required by Elections Code section 2211.5. (Cal. Rules of Court, rule 10.970(b)(1).)

To detail the information required by section 2211.5(a)(1) and (b), the rule authorizes the courts to use either *Attachment to Confidential Report of Findings and Orders Affecting Voting Rights* (form MC-600A) or a computer-generated printout that presents the required information using the same “clearly identified spaces” as form MC-600A. (Cal. Rules of Court, rule 10.970(b)(2)(B).)

Policy implications

This recommendation is required to implement changes to the law. The committees anticipate that the recommendation will promote judicial branch independence and accountability and contribute to the modernization of management and administration.

Comments

The proposal circulated for public comment in the spring 2023 invitation-to-comment cycle. The committees received seven comments, including three from superior courts and one from the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. One commenter agreed with the proposal, and five commenters agreed and suggested modifications. One commenter did not agree with the proposal based on privacy concerns. The committees note that the specific concern raised by this commenter—that private information might be posted on court websites—is not permitted, let alone required, by the statute or the recommended rule and forms.

One commenter pointed out that the forms circulated for comment used an outdated standard for determining a person’s capacity to vote and suggested replacing it with the current standard. The committees have done so. Another commenter noted that the number of proceedings reported in item 2 of form MC-600 would not match the number of disqualifications or restorations reported on form MC-600A or another attached report. That discrepancy is not an error in the forms but is attributable to the difference between the determinations and types of proceedings under section 2211.5(a)(2) to be reported in item 2 of form MC-600 and the determinations under section 2211.5(a)(1) to be attached on form MC-600A or a computer-generated report materially identical to form MC-600A. The committees therefore do not recommend a change to the forms in response to that comment.

⁵ “In consultation with the Secretary of State, the Judicial Council shall adopt rules of court to implement this section and Judicial Council forms that shall be used by courts to furnish the notices described in subdivision (a). The forms shall contain clearly identified spaces for” the information specified in section 2211.5(b)(1)–(6).” (§ 2211.5(b).) Although the Judicial Council has full authority to make rules and forms, committee staff have consulted the Secretary of State’s staff regarding these rules and forms both before and after the comment period. The Secretary of State’s office has expressed agreement with the recommendations in this report.

Another commenter noted that *Order Appointing Probate Conservator* (form GC-340) does not give the court the opportunity to make the predicate finding for a disqualification order by clear and convincing evidence. The committees attribute the absence of the standard of proof from the form to its omission from Probate Code section 1910, which sets out the correct finding but, instead of expressly prescribing the standard of proof, refers to Elections Code sections 2208 and 2209. As required by section 2211.5(a), the clerk would report a finding that a probate conservatee lacked capacity to vote only if the finding met the requirements in sections 2208 and 2209. The Probate and Mental Health Advisory Committee will explore options for adding the correct standard of proof to form GC-340 as part of its ongoing efforts to update the conservatorship forms. In the meantime, if the clerk finds nothing in the record to show that the court made the finding by clear and convincing evidence, then the clerk should not report that the court did so.

The chart of comments and committee responses is attached at pages 10–19.

Alternatives considered

The committees did not consider taking no action. Section 2211.5(b) requires the Judicial Council to adopt implementing rules of court and forms to be used by the courts to report the information required by that section to the Secretary of State. The committees considered proposing two completely separate sets of forms, one to report disqualifications from voting under sections 2208–2210 and another to report disqualifications under section 2211. Because the former requires a judicial determination, by clear and convincing evidence, that the person cannot, with or without reasonable accommodations, communicate a desire to participate in the voting process, whereas the latter does not, developing a single form set presented challenges. The committees determined, however, that the recommended forms could accommodate all the differences among the determinations.

The committees initially included a provision in the recommended rule requiring the statutory reports to be transmitted confidentially to the Secretary of State.⁶ Based on comments received and cognizant that the provision simply reflected existing statutory requirements, however, the committees removed the requirement for confidential transmission from the rule.

The committees also considered recommending adoption of form MC-600A for mandatory use. Informed by both internal and external comments, however, the committees determined that a mandatory form for reporting the case-specific information in sections 2211.5(a)(1) and (b), though arguably required by the letter of the statute, would frustrate the statute’s purpose by

⁶ Several statutory provisions require or strongly imply that the information contained in reports submitted under section 2211.5 must be kept confidential. See §§ 2138.5 and 2194 (confidentiality of information, including California driver’s license number and social security number, used for voter registration), Gov. Code, § 7924.000 (confidentiality of information, including California driver’s license and social security number used for voter identification or registration), Prob. Code, §§ 1821(a) (confidentiality of information submitted with conservatorship petition) and 1826(c) (confidentiality of court investigator’s report), and Welf. & Inst. Code, § 5328 (confidentiality of information and records obtained in the course of providing treatment to persons with mental health disorders or developmental disabilities).

limiting courts' ability to report the required information.⁷ The committees considered a series of options suggested by commenters for use to submit the reports, including local forms, comma-separated values (CSV) files, or Excel files, but concluded that none of these options was consistent with the legislative intent that the report be submitted in a form containing “clearly identified spaces” for the required information. (§ 2211.5(b).) The committees nevertheless recommend authorizing courts to report the information required by section 2211.5(a)(1) and (b)(1)–(6) by attaching to mandatory form MC-600, as an alternative to form MC-600A, a computer-generated report that presents the statutorily required information using the same clearly identified spaces as form MC-600A. (See recommended rule 10.970(b)(2)(B).) Expanding the range of computer programs that courts may use to generate the reports is intended to enable courts to comply more efficiently with their statutory duties. At the same time, requiring the attached report to include the same clearly identified spaces as provided in form MC-600A is intended to adhere to the mandate in section 2211.5(b) by precluding any material difference between form MC-600A and other reports.

Fiscal and Operational Impacts

The fiscal and operational impacts of this proposal are almost entirely attributable to the legislation that mandated it. The JRS noted that the recommendation is needed to conform to a change in the law, and “[t]here will be a moderate one-time impact to create the required reports in case management systems.” The JRS also noted that “[m]edium and large courts may be more significantly affected by the reporting requirements due to a potentially higher volume of reportable cases.” The committees note, on the other hand, that the legislation as implemented by the rule and forms may allow courts to streamline their reporting operations by requiring monthly reports to the Secretary of State because, until January 1, 2024, the law requires case-by-case reporting of each determination under sections 2208–2211 to both the Secretary of State and the county elections official.

Attachments and Links

1. Cal. Rules of Court, rule 10.970, at page 7
2. Forms MC-600 and MC-600A, at pages 8–9
3. Comments chart, at pages 10–19
4. Link A: Assembly Bill 2841 (Stats. 2022, ch. 807),
https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2841

⁷ The committees initially attempted to expand reporting options by authorizing the use of a “printout generated by the court’s case management system that includes the same information as on form MC-600A and presents the information in substantially the same format as form MC-600A.” However, commenters indicated that programming a case management system to generate a report that included the required information could be difficult and costly.

Rule 10.970 of the California Rules of Court is adopted, effective January 1, 2024, to read:

1 **Rule 10.970 Reports of findings and orders affecting voting rights (Elec. Code,**
2 **§ 2211.5)**

3
4 **(a) Application**

5
6 This rule applies to the reports required by Elections Code section 2211.5 regarding
7 findings and orders disqualifying a person from voting or restoring a person’s right
8 to register to vote under Elections Code sections 2208–2211.

9
10 **(b) Forms**

11
12 (1) The clerk must use *Confidential Report of Findings and Orders Affecting*
13 *Voting Rights* (form MC-600) to submit each report under this rule.

14
15 (2) To report the information required by Elections Code section 2211.5(a)(1)
16 and (b) for the period covered by each report, the clerk must attach to form
17 MC-600 either:

18
19 (A) A completed *Attachment to Confidential Report of Findings and*
20 *Orders Affecting Voting Rights* (form MC-600A) that includes the
21 required information about each applicable determination made by the
22 court in the period covered by the report; or

23
24 (B) A computer-generated report that presents the required information for
25 the period covered by the report using the same clearly identified
26 spaces as form MC-600A.

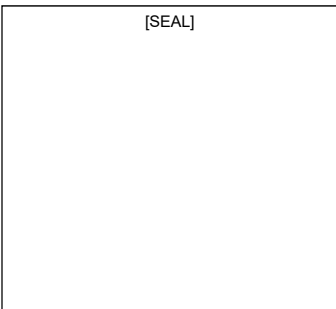
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
CONFIDENTIAL REPORT OF FINDINGS AND ORDERS AFFECTING VOTING RIGHTS	

Instructions to Clerk

1. *By the first day of each month, and more frequently if the court chooses, submit this form and all attachments to the Secretary of State at votecal.conservatorship@sos.ca.gov or any server or platform approved by the Secretary for that purpose.*
NOTE: *More than one report may be made each month. Each report must cover every day since the last report.*
2. *Report the personal and case information required by Elections Code section 2211.5 for each person whom the court disqualified from voting or whose right to register to vote the court restored under Elections Code sections 2208–2211 since the court's last report.*
3. *Attach Attachment to Confidential Report of Findings and Orders Affecting Voting Rights (form MC-600A) or a computer-generated report that presents the required information using the same clearly defined spaces as form MC-600A. Use as many pages as needed, number them consecutively, and attach them all to this form.*
4. *Complete the certification at the bottom of this page only for those disqualification orders under Elections Code sections 2208–2210 that stated that they were based on the court's finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process.*

1. All findings and orders affecting voting rights made by this court under Elections Code sections 2208–2211 in the period from (date): _____ to (date): _____, inclusive, are reported on the attached (check one)
 - a. Attachment to Confidential Report of Findings and Orders Affecting Voting Rights (form MC-600A).
 - b. computer-generated report that presents the required information using the same clearly defined spaces as form MC-600A.
 Number of pages attached: _____

2. The total number of proceedings in which each action described below occurred in the period specified in item 1 is as follows:
 - a. A conservator of the person or the person and estate was appointed under Probate Code section 1800 et seq.
 - b. A conservator of the person or the person and estate was appointed under Welfare and Institutions Code section 5350 et seq.
 - c. A conservator was appointed in a proceeding initiated under Welfare and Institutions Code section 5352.5 for a person who was found not competent to stand trial and whose trial or judgment was suspended under Penal Code section 1370.
 - d. A person pleaded and was found not guilty by reason of insanity under Penal Code section 1026 and was at the time of judgment deemed to be gravely disabled as that term is defined in Welfare and Institutions Code section 5008(h)(2).



CLERK'S CERTIFICATION

I certify that every time subitem k is checked on the attached form MC-600A—or an equivalent indication is made on the attached report—the applicable order in the case file stated that the court had disqualified the person from voting based on a finding, by clear and convincing evidence, that the person could not, with or without reasonable accommodations, communicate a desire to participate in the voting process.

Date: _____ Clerk, by _____, Deputy

CONFIDENTIAL**MC-600A**

**ATTACHMENT TO CONFIDENTIAL REPORT OF FINDINGS AND ORDERS AFFECTING VOTING RIGHTS
SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

Instructions to Clerk

Complete and attach to Confidential Report of Findings and Orders Affecting Voting Rights (form MC-600). Use as many copies of this form as are needed to report each person subject to a finding and order under Elections Code sections 2208–2211 made by the court during the reporting period. Provide all applicable information for each person subject to such a finding and order. Number each item and each page consecutively, and attach all pages to form MC-600 for submission.

Reporting period from (date): _____ to (date): _____, inclusive.

- ___ a. Name (first, middle, last, suffix): _____
 b. All other known names: _____
 c. Last known address: _____
- d. Case number: _____ e. Date of order: _____ f. Date of birth: _____
 g. Driver's license or ID # (if available): _____ h. Last four digits of social security # (if available): _____
 i. The order states that it was a (check one) disqualification from voting restoration of the right to register to vote.
 j. The order states that it was made under Elections Code section (check one) 2208 2209 2210 2211.
 k. The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process.
 (Not applicable to a disqualification order made under section 2211.)

- ___ a. Name (first, middle, last, suffix): _____
 b. All other known names: _____
 c. Last known address: _____
- d. Case number: _____ e. Date of order: _____ f. Date of birth: _____
 g. Driver's license or ID # (if available): _____ h. Last four digits of social security # (if available): _____
 i. The order states that it was a (check one) disqualification from voting restoration of the right to register to vote.
 j. The order states that it was made under Elections Code section (check one) 2208 2209 2210 2211.
 k. The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process.
 (Not applicable to a disqualification order made under section 2211.)

- ___ a. Name (first, middle, last, suffix): _____
 b. All other known names: _____
 c. Last known address: _____
- d. Case number: _____ e. Date of order: _____ f. Date of birth: _____
 g. Driver's license or ID # (if available): _____ h. Last four digits of social security # (if available): _____
 i. The order states that it was a (check one) disqualification from voting restoration of the right to register to vote.
 j. The order states that it was made under Elections Code section (check one) 2208 2209 2210 2211.
 k. The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process.
 (Not applicable to a disqualification order made under section 2211.)

- ___ a. Name (first, middle, last, suffix): _____
 b. All other known names: _____
 c. Last known address: _____
- d. Case number: _____ e. Date of order: _____ f. Date of birth: _____
 g. Driver's license or ID # (if available): _____ h. Last four digits of social security # (if available): _____
 i. The order states that it was a (check one) disqualification from voting restoration of the right to register to vote.
 j. The order states that it was made under Elections Code section (check one) 2208 2209 2210 2211.
 k. The order states that it was based on a judicial finding, by clear and convincing evidence, that the person could not communicate, with or without reasonable accommodations, a desire to participate in the voting process.
 (Not applicable to a disqualification order made under section 2211.)

Page __ of __

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
1.	ACLU of Northern California by Brittany Stonesifer San Francisco	AM	The clerk instructions in proposed form MC-600 contain an incorrect and outdated standard for disqualification of voting rights. As proposed, step 3 in the clerk instructions currently admonishes to: “Certify that each disqualification order made under Elections Code sections 2208–2210 stated that it was based on the required finding of the person’s inability to complete the voter registration affidavit.” However, the standard in Elections Code section 2208-2210 is that the “court finds by clear and convincing evidence that the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.” Please correct this section of proposed for MC-600 to reflect the correct legal standard. Using a standard based on a person’s ability to complete a voter registration form violates state and federal law and unfairly restricts access to voting for people with disabilities which do not impair their desire and capacity to participate in the electoral process.	The committees appreciate this comment and have revised their recommendation as suggested.
2.	Dune Buggy Los Angeles	N	Judicial Council has no say in anyone’s physical body or any health issues. None of you are licensed medical doctors with the Medical Board of California. Mental health has nothing to do with mental competency. Behavior Health Science has nothing to do with mental competency. Also putting sealed mental health records on any court website is illegal. Have you ever	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>heard of the United States Constitution and Bill of Rights all 27 amendments and HIPAA regulations? How about the CA Constitution, Article VI Section 9 through 10?</p> <p>Every Judge claiming to be a mental health/behavior Health Science judge is committing felonies all over the place. Every Judge and Attorney must hold a physical Attorney license number in order to practice law of any kind. Designations of their titles while working in the court system along with their complete legal first, middle, and last name with correct spelling that matches their birth certificates and CA drivers licenses? All attorneys practicing law in the state of CALIFORNIA must have their attorney license up to date each year, including all attorneys in the judicial commission and Attorney General’s office, judicial council, and private practice.</p> <p>Also any Attorney in private practice must have a business license from the CA Secretary of State as a corporation doing business in the state of California. Also no corporations are allowed in the courthouses. Especially, when acting as district attorneys for the government. .org endings on email addresses in the district attorney’s office are not sdcounty.ca.gov email addresses. Thank you for your help.</p>	<p>Nothing in this proposal authorizes posting of sealed or private mental health records on court websites. No further response required.</p> <p>No response required.</p> <p>No response required.</p>
3.	Joint Rules Subcommittee Trial Court Presiding Judges Advisory Committee and	AM	The JRS notes that the proposal is required to conform to a change of law.	The committees appreciate this comment. No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
	Court Executives Advisory Committee by Corey Rada, Senior Analyst		<p><i>Suggested Modifications</i> Proposed rule 10.970 subsection (b) and language stating “in a manner that protects the confidentiality of the information on form MC-600A” on #4 of the instructions to clerk section on form MC-600 should both be removed. Both sets of language introduce confusion as to the required method of transmitting this information to the Secretary of State, which is stated to be sending an email to a designated address. It does not appear that anything other than standard email transmission is required, and the confidentiality language suggests that something else may be. That could result in courts implementing an unnecessarily burdensome process to comply with this requirement. As the Secretary of State has prescribed the method of transmission since 2017, it is reasonable to expect that they will designate a different method in the future if necessary.</p> <p><i>The JRS also notes the following:</i> There will be a moderate one-time impact to create the required reports in case management systems. Medium and large courts may be more significantly affected by the reporting requirements due to a potentially higher volume of reportable cases. The requirement to report aggregate data for the preceding month by the first day of each month pursuant to Elections Code section 2211.5(a) may be impossible to comply with at times.</p>	<p>The committees agree that the language noted is unnecessary and have deleted it from the recommended rule and form.</p> <p>The committees have modified their recommendation to adhere more strictly to the statutory language requiring courts to report the required information “by the first day of the month and more frequently if the clerk so chooses” in the hope that this language will provide the courts with more flexibility.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
4.	Orange County Bar Association by Michael Gregg, President	A	No specific comment.	The committees appreciate the comment. No further response required.
5.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	AM	Three months is not enough time for implementation, as new reporting types must be incorporated, which may require analyst work to ensure the mandatory information is included in the monthly Case Management System report.	The committees do not recommend any change in response to this comment. The recommended rules and forms are necessary to fulfill the statutory mandate in Elections Code section 2211.5(b).
6.	Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	AM	The options listed under section 2 of form MC-600 do not include the findings reflected in ELEC 2211. If this form is mandatory, is the Secretary of State only concerned about instances where the defendant was found not guilty by reason of insanity and found to be gravely disabled at the time judgment is pronounced? This will cause for the number of cases reflected on the cover sheet to not match the number of cases on the report. Rather than require the Court to either utilize MC-600A or a similarly formatted document, it would be best to allow the data to be submitted	The committees do not recommend a change to form MC-600 in response to this comment. The commenter is correct that the number of proceedings reported in item 2 will not include all the proceedings or findings reflected in section 2211, but the committees do not intend it to. Item 2 reports the information required in Elections Code section 2211.5(a)(2): the number of proceedings specified in section 2208(1)–(4) since the clerk’s last report. Section 2208(a)(1)–(3) specifies the proceedings covered by sections 2208–2210. Section 2208(a)(4), however, partly overlaps with only one of the four situations addressed by section 2211: when a person whose voting rights are at issue has been found not guilty by reason of insanity. And because form MC-600A is for use to report information required by section 2211.5(a)(1), including determinations under all situations addressed by section 2211, the number of cases reflected on that form or another attachment will not match the number of cases in item 2 of form MC-600. The committees do not recommend a change to the proposal in response to this comment. Elections Code section 2211.5(b) requires the

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>in the form of a CSV or Excel file. This would allow the data to be easily extracted from our case management system and would provide the Secretary of State with a means to filter the information and compare to other counties if applicable.</p>	<p>adoption and use of Judicial Council forms containing “clearly identified spaces” for the information described in section 2211.5(b)(1)–(6). Although it seems likely that transmitting the reports in a comma-separated values (CSV) or Excel file would be simpler for both courts and the Secretary of State, a statutory amendment would be required to authorize transmission in either of those formats.</p>
7.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Would the proposal provide cost savings? If so, please quantify. No.</p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p>Due to the nature of this impacting multiple case types, courts may have to form a committee to determine how the court will implement this in the most uniform and efficient manner. This will require training for the staff member(s) assigned to this task and a back-up will need to be identified due to the fixed monthly deadline.</p>	<p>No response required.</p> <p>No response required.</p> <p>The committees do not recommend a change to the proposal in response to this comment. The reporting requirement, the cases subject to it, and the deadline are all imposed by statute. As the court notes below, it already reports these determinations. Elections Code sections 2208–2211 currently require courts to report the same information for the same case types more frequently (i.e., on a case-by-case basis) to more</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</p> <p>How well would this proposal work in courts of different sizes? This will take significant effort, regardless of the size of the court.</p> <p>General Comments</p> <p>Proposed rule 10.970(a)(2): In addition to the optional form MC-600A or printout generated by the court’s case management system, it is proposed that the rule also allow a court to develop a comparable local form that includes all the requirements under Elections Code § 2211.5.</p>	<p>recipients (the county elections official) than does the law as amended by AB 2841.</p> <p>No response required.</p> <p>The committees do not recommend a change to the proposal in response to this comment. The burdens identified are due to the statutory requirements, not the recommended rule and forms.</p> <p>The committees do not recommend a change in response to this comment. Elections Code section 2211.5(b), which requires the Judicial Council to adopt and the courts to use forms with “clearly identified spaces” for reporting the information described in section 2211.5(b)(1)–(6), appears to preclude a court from using a local form to report the required information unless that form is materially identical to the Judicial Council form developed for that purpose, form MC-600A. To give courts flexibility within these statutory limits, the committees have modified the recommended rule to authorize courts to use either form MC-600A or a computer-generated document that presents the required information using the same clearly identified spaces as form MC-600A.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>MC-600: <i>Instructions to Clerk:</i> Recommend removing the instruction to complete items 1 and 2 on the form as unnecessary. Also propose allowing a comparable local form, in addition to using optional form MC-600A or a printout generated by the court’s case management system.</p> <p><i>Item 1:</i> Does the word, “inclusive” infer that all orders, whether made under Elections Code 2208, 2209, 2210, or 2211, must be included in the attachment for the specific dates noted here? This can be problematic since some courts will have different staff completing this form, based on the area of law that each of the case types are assigned.</p> <p><i>Item 1.b.:</i> Again, recommend allowing a comparable local form, in addition to using optional form MC-600A or a printout generated by the court’s case management system.</p> <p><i>Item 2:</i> It is unclear whether this form could be completed once for each of the subdivisions a–d</p>	<p>The committees have removed the instruction to complete items 1 and 2 from form MC-600 but, for the reasons explained above, do not recommend authorizing use of a local form unless that form is a computer-generated report that presents the required information using the same clearly identified spaces as form MC-600A.</p> <p>The committees intend the term “inclusive,” as used to refer to the date range in form MC-600, item 1, to indicate that the range includes the beginning date and the end date. The <i>statute</i> requires each court to notify the Secretary of State of all findings made regarding a person’s competency to vote, “as specified in each of <i>Sections 2208 through 2211, inclusive . . .</i>” The committees read this use of “inclusive” to require the court to report all specified findings made under the authority of all sections within the range—sections 2208, 2209, 2210, and 2211—not that the court must aggregate all the findings under those sections into a single report.</p> <p>The committees do not recommend authorizing a court to use a local form unless the form is a computer-generated report that presents the required information using the same clearly defined spaces as form MC-600A.</p> <p>The committees do not recommend a change to the form in response to this comment. As</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>or if it would be acceptable to list the total number of a. on one coversheet and total number of b. on another coversheet, etc. This information might be tracked by different staff members, depending on the court.</p> <p><u>Clerk's Certificate:</u> Recommend removing the reference to subitem k in favor of more generic language such as "I certify that every time a person is disqualified from voting on attached form MC-600A or its equivalent, the order on file stated that the court..."</p> <p><u>Clerks' Certificate:</u> The clerk is required to certify that a finding was made, "by clear and convincing evidence," however for Probate Conservatorships the JC form (GC-340) does not include this language in the findings.</p>	<p>discussed above, any uncertainty whether the court must report the information for all case types on the same form or may report the information for each different case type on a separate form is traceable to the statute's lack of clarity on this point.</p> <p>The committees do not recommend removing the reference to subitem k, but have revised the language to clarify the nature of the certification. The language suggested by the commenter is overbroad because (1) the court is not required to make the certified finding as a condition of disqualifying a person from voting under section 2211 and (2) even if the finding is required as a condition of disqualification, the court might not have made the finding, made the finding using an incorrect standard of proof, or recorded the finding without indicating the proper standard. (For an example of the last, below.)</p> <p>The committees recognize that <i>Order Appointing Probate Conservator</i> (form GC-340) does not require the court to make the predicate finding by clear and convincing evidence. This is probably attributable to the terms of Probate Code section 1910, which do not specify an evidentiary standard by which the court must make that finding. In conservatorship proceedings in which the court has, as part of the appointment order, disqualified the conservatee from voting under section 1910, the order may therefore not state that the court made the finding by clear and</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
			<p>MC 600A: Recommend revising the form to accommodate reporting for more individuals. The form only allows for the reporting of 4 individuals per page. The current format used by the San Diego Superior Court accommodates 13 individuals. It is recommended to format the required fields in a table with each row allowing for one individual and the required information being in separate columns.</p> <p>Recommend removing subitem k. This finding is required by law and does not require a separate entry. Subitem k takes up significant space that could otherwise be used to add additional individuals.</p>	<p>convincing evidence as required by Elections Code section 2208 and 2209. If the order does not state that the court made the finding using the proper standard of proof, the clerk should not, for that case, check subitem k on form MC-600A or its equivalent.</p> <p>The committees do not recommend a change to form MC-600A in response to this comment. The form is designed to allow a court to report additional cases as needed in increments of 4 per page, to allow a tailored report. The Judicial Council form standards preclude presenting the required information (see also the response below) in the suggested format. Moreover, at a time when courts are turning increasingly to the use of electronic filing, case management, and recordkeeping, the committees do not see a significant advantage to drafting a form to minimize the number of paper pages needed.</p> <p>The committees do not recommend the suggested change. Section 2211.5(a)(1) requires reports of determinations under sections 2208–2211, “inclusive.” Section 2211 does not require this finding as a condition of disqualification from voting. In addition, the commenter has noted that a court order disqualifying a probate conservatee on form GC-340 might not indicate that the finding was made by the proper evidentiary standard. Because the finding is not required in all cases subject to the reporting requirement and will</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR23-24

Trial Courts: Report of Determinations Affecting Voting Rights (Adopt Cal. Rules of Court, rule 10.970; adopt form MC-600; approve form MC-600A)

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

	Commenter	Position	Comment	Committee Response
				not necessarily be made or reflected in all cases in which it is required, the committees recommend retaining subitem k with a check box so the report can distinguish the cases in which the records show that the proper finding was made from the cases in which the records do not show that.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated