



Judicial Council of California

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

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-101

For business meeting on July 21, 2023

Title

Rules and Forms: Order on Petition for Relief From Financial Obligations During Military Service

Agenda Item Type

Action Required

Effective Date

July 24, 2023

Rules, Forms, Standards, or Statutes Affected

Revise form MIL-020

Date of Report

June 23, 2023

Recommended by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

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Executive Summary

The Civil and Small Claims Advisory Committee recommends the revision of a Judicial Council form to reflect statutory amendments prohibiting the accrual of interest on deferred financial obligations for members of the United States military reserves or the National Guard who are called to active duty.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective July 24, 2023, revise *Order on Petition for Relief From Financial Obligations During Military Service* (form MIL-020) to reflect recent changes to Military and Veterans Code section 409.3, as enacted in Senate Bill 1311 (Stats 2022, ch. 620).

The proposed revised form is attached at pages 4–5.

Relevant Previous Council Action

The council approved form MIL-020 (along with two other forms), effective January 1, 2012, to assist courts and servicemembers in filing and handling petitions for the special relief from

financial obligations provided to servicemembers called up to active duty available under California law. The council has not revised form MIL-020 since it was approved.

Analysis/Rationale

California law provides in section 409.3 of the Military and Veterans Code¹ that members of the United States military reserves or the National Guard who are called for active duty may be temporarily relieved from financial obligations in situations where their active duty materially affects their ability to pay such obligations. The Legislature amended section 409.3, effective January 1, 2023, to clarify that interest “shall not be charged or accumulated during the period of deferment unless otherwise ordered by the court.” (Mil. & Vet. Code, § 409.3(d)(1) & (d)(2).)

The amendments to section 409.3 necessitate minor revisions to form MIL-020. Specifically, item 6b on the form currently states that interest, at the rate described in the contract, is to be added to the principal balance of the loan and the maturity date of the loan is to be extended based on the petitioner’s time in active service. This proposal removes the statements related to interest in that item, because interest may no longer be automatically accumulated during the deferment, and makes other clarifying changes.²

Policy implications

The proposed form revisions simply implement statutory amendments on existing council forms to ensure that the forms remain consistent with law. Therefore, the policy implications borne out of this proposal are the result of statutory changes and not form revisions.

Comments

This proposal was not circulated for public comment because it contains minor noncontroversial revisions to implement changes in law, and those changes are therefore within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

The alternative to updating the military forms to eliminate the reference to interest accruing would be *not* to update them at this time. The committee considered this option but concluded that taking no action would leave mandatory forms inconsistent with the law and be confusing to litigants who use the forms.

¹ All further citations are to the Military and Veterans Code unless otherwise specified.

² No change is being recommended to the references to interest in item 6c at this time because interest may be charged or accumulated if expressly ordered by the court. Mil. & Vet. Code, § 409.3 (d)(1) & (2), and (e)(1). Item 6c would allow such a term to be included in the order.

Fiscal and Operational Impacts

If a court provides free copies of these forms to parties, it will incur costs to print or duplicate the forms. Courts may also incur self-help training costs regarding the new statutory multipliers. However, the revisions are required to make the forms consistent with current law.

Attachments and Links

1. Form MIL-020, at pages 4–5
2. Link A: Sen. Bill 1311,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1311

ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT 4/27/2023 NOT APPROVED BY THE JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
ORDER ON PETITION FOR RELIEF FROM FINANCIAL OBLIGATIONS DURING MILITARY SERVICE	
CASE NUMBER:	

1. The application was duly considered
- a. ☐ at a hearing on (date): _____ in Department: _____ of the above-entitled court.
- b. The following persons were present at the hearing:
- (1) ☐ Petitioner/Plaintiff (3) ☐ Petitioner/Plaintiff's attorney (name): _____
- (2) ☐ Respondent/Defendant (4) ☐ Respondent/Defendant's attorney (name): _____
- (5) ☐ No person appeared

THE COURT FINDS

2. ☐ Petitioner is or was an officer or enlisted member of the National Guard or a reservist of the United States military reserves and
- a. ☐ has been called or ordered into full-time active duty service in the state or federal armed services or reserves. (Mil. & Vet. Code, § 400.)
- b. ☐ is currently in full-time active duty service in the state or federal armed services or reserves. (Mil. & Vet. Code, § 400.)
- c. ☐ is within six months of having completed full-time active duty in the state or federal armed services. (Mil. & Vet. Code, §§ 400, 409.3(a).)
- d. ☐ none of the above apply to petitioner.
3. Petitioner's ability to pay to respondent a financial obligation or liability incurred before the effective date of the orders for petitioner's most current period of active duty (check one) ☐ has ☐ has not been materially affected by reason of petitioner's most current military service.
4. ☐ Other findings (if any): _____

THE COURT ORDERS

5. ☐ The petition for relief is **denied**.
6. ☐ The petition for relief is **granted** as follows (check all relief granted):
- a. ☐ Petitioner's obligation to pay respondent the financial obligation identified below is deferred (identify financial obligation by creditor, loan number, property address, or other identifying information):

(1) ☐ The deferral of payments begins on (date of beginning of active military service): _____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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6. a. (2) ☐ The deferral of payments ends on *(date of release from active military service)*:
If petitioner is released from active military service before this end date, petitioner must immediately notify respondent of the date of his or her release and must resume payments on the first day of the month following release.
- b. ☐ **On deferral of an obligation requiring installment payments:** The obligations of the loan identified above are deferred and the maturity date is to be extended by a period of time equal to the period in which petitioner is in active military service.
- ☐ Other terms *(if any)*:
- c. ☐ **On deferral of an obligation not requiring installment payments:** The deferred obligation described above is to be paid as follows:
- (1) ☐ In a lump sum at the end of the deferral period.
- (2) ☐ Over a period of time equal to the period of active military service, in equal monthly payments, with interest accruing at _____ percent per year.
- (3) ☐ Other terms *(if any)*:
- d. ☐ **On deferral of an obligation to pay income tax:** The obligation of petitioner to pay income tax is deferred until six months after the petitioner's release from active military service. (Mil & Vet. Code, § 409.6.)
- (1) Current expected release date is *(date)*:
- (2) Deferral of payments ends on *(date)*:
If petitioner is released from active military service before this end date, petitioner must immediately notify respondent of the date of his or her release and must resume payments on the first day of the month six months following release.
- (3) No interest will accrue on the tax amounts during the deferral period, and no penalties will be imposed for nonpayment of taxes during that period.
- e. During the period of deferral, respondent may not exercise any remedies otherwise available for petitioner's failure to comply with the terms of the financial obligation. Respondent may not impose fines, penalties, or late charges and may not institute or continue proceedings to attach or foreclose on property securing the obligation.
7. ☐ Other orders *(if any)*:

Date:

JUDICIAL OFFICER

ORDER ON PETITION FOR RELIEF FROM FINANCIAL OBLIGATIONS DURING MILITARY SERVICE