



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 22-028*

For business meeting on: March 11, 2022

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**Title**

Rules and Forms: Miscellaneous Technical Changes

**Agenda Item Type**

Action Required

**Effective Date**

March 14, 2022

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rules 4.200 and 4.530; revise forms CR-251 and CR-402

**Date of Report**

March 10, 2022

**Recommended by**

Judicial Council staff  
Sarah Fleischer-Ihn, Attorney  
Criminal Justice Services

**Contact**

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### Executive Summary

Judicial Council staff have identified items in the California Rules of Court and Judicial Council forms that must be amended and revised to reflect changes in the law resulting from recent legislation and correct inadvertent errors. Judicial Council staff recommend making the necessary corrections as soon as possible to ensure the rules and forms comply with the law and to avoid causing confusion for court users, clerks, and judicial officers.

### Recommendation

Judicial Council staff recommend that the council, effective March 14, 2022:

1. Amend California Rules of Court, rule 4.200, to replace the reference to “*Wheeler/Batson* objections” with a reference to objections under Code of Civil Procedure, section 231.7(b);
2. Amend California Rules of Court, rule 4.530, to delete references to repealed Penal Code section 1203.1b and to reflect amendments to Penal Code section 1203.9;

3. Revise *Order for Transfer* (form CR-251) to delete references to repealed Penal Code section 1203.1b; and
4. Revise *Prosecuting Agency Response to Petition/Application* (form CR-402) to replace an incorrect reference in item 2 of the proof of service and correct a misnumbered provision.

The text of the proposed amended rules and revised forms is attached at pages 4–8.

### **Relevant Previous Council Action**

Although the Judicial Council has previously acted on the rules and forms, this proposal recommends only minor corrections unrelated to any prior action.

### **Analysis/Rationale**

The changes to these forms are noncontroversial and necessary to conform to statutory changes or correct inadvertent errors.

The amendment to California Rules of Court, rule 4.200 will replace the reference in subdivision (a)(8) to “*Wheeler/Batson* objections” with a reference to objections under Code of Civil Procedure, section 231.7(b). This change is needed to incorporate the new Code of Civil Procedure section that addresses bias in peremptory challenges in jury selection (Assem. Bill 3070; Stats. 2020, ch. 318).

The amendment to California Rules of Court, rule 4.530, Intercounty transfer of probation and mandatory supervision cases, is needed to reflect statutory changes repealing or canceling specified criminal fines and fees (Assem. Bill 1869; Stats. 2020, ch. 92 and Assem. Bill 177; Stats. 2021, ch. 257). The change will delete references to repealed Penal Code section 1203.1b in subdivision (g)(4), and to update subdivision (h)(1)(B) to reflect amendments to Penal Code section 1203.9(d)(2).

The revision to *Order for Transfer* (form CR-251) deletes references to the specified fines and fees that are no longer authorized as a result of the repeal of Penal Code section 1203.1b by Assembly Bill 1869.

The revision to *Prosecuting Agency Response to Petition/Application* (form CR-402) will replace an incorrect reference in item 2 of the proof of service, replacing the reference to the “Petition/Application for Resentencing or Reduction” with the “Prosecuting Agency Response to Petition/Application,” and correcting a misnumbered provision.

### **Policy implications**

There are no policy implications to this proposal.

## **Comments**

This proposal was not circulated for public comment because the recommended changes are corrections and minor modifications that are unlikely to create controversy because they are to implement new statutes, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

## **Alternatives considered**

No alternatives were considered.

## **Fiscal and Operational Impacts**

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are minor or technical corrections, case management systems are unlikely to need updating to implement them.

## **Attachments and Links**

1. Cal. Rules of Court, rules 4.200 and 4.530, at pages 4–5
2. Forms CR-251 and CR-402, at pages 6–8
3. Link A: Code of Civil Procedure, § 231.7,  
<https://leginfo.legislature.ca.gov/faces/selectFromMultiples.xhtml?lawCode=CCP&sectionNumber=231.7>
4. Link B: Assembly Bill 3070 (Stats. 2020, ch. 318),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB3070](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB3070)
5. Link C: Assembly Bill 1869 (Stats. 2020, ch. 92),  
[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201320140AB1850](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB1850)
6. Link D: Assembly Bill 177 (Stats. 2021, ch. 257),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB177](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB177)

Rules 4.200 and 4.530 of the California Rules of Court are amended, effective March 14, 2022, to read:

**Rule 4.200. Pre–voir dire conference in criminal cases**

**(a) The conference**

Before jury selection begins in criminal cases, the court must conduct a conference with counsel to determine:

(1)–(7) \* \* \*

(8) The procedure for making ~~Wheeler/Batson~~ objections pursuant to Code of Civil Procedure 231.7(b).

The judge must, if requested, excuse the defendant from then disclosing any defense theory.

**(b) \* \* \***

**Advisory Committee Comment**

\* \* \*

**Rule 4.530. Intercounty transfer of probation and mandatory supervision cases**

**(a)–(f) \* \* \***

**(g) Transfer**

(1)–(3) \* \* \*

(4) The orders for transfer must include an order committing the supervised person to the care and custody of the probation officer of the receiving county ~~and an order for reimbursement of reasonable costs for processing the transfer to be paid to the county of the transferring court in accordance with Penal Code section 1203.1b.~~

(5)–(9) \* \* \*

**(h) Court-ordered debt**

(1) In accordance with Penal Code section 1203.9(d) and (e):

(A) \* \* \*

1 (B) The receiving court and receiving county probation department may not  
2 impose additional local fees and costs ~~as authorized~~.

3  
4 (C) \* \* \*

5  
6 (2) \* \* \*

7  
8 **Advisory Committee Comment**

9  
10 \* \* \*  
11

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  CITY AND ZIP CODE:  STREET ADDRESS:  DEPT.:  BRANCH NAME:	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center; font-size: 24pt;"><b>DRAFT</b></p> <p style="text-align: center; font-size: 24pt;"><b>Not approved by the Judicial Council</b></p>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: <div style="text-align: right;">DATE OF BIRTH:</div>	
<p style="text-align: center;"><b>ORDER FOR TRANSFER</b>  (Pen. Code, § 1203.9 and Cal. Rules of Court, rule 4.530)</p>	CASE NUMBER:

1. A motion for intercounty transfer of (*select one*): ☐ probation ☐ mandatory supervision in the above-entitled case was heard by this court on (*date*):
2. Notice of the motion was provided as required by California Rules of Court, rule 4.530(d).
3. Before deciding the motion, the court considered
  - a. any comments provided by the receiving court; and
  - b. at least the following factors: (1) the permanency of the supervised person's residence, (2) the availability of appropriate programs for the supervised person, (3) restitution orders, and (4) victim issues.
4. The motion for transfer is (*select one*):

☐ **Denied** for the reasons stated on the record.  
☐ **Granted**. The court has determined the supervised person's county of residence and the case is hereby ordered transferred to the Superior Court of the County of:
  - a. The court of the receiving county must accept entire jurisdiction over the case.  
The balance of time remaining on supervision is (*specify*):
  - b. The supervised person is committed to the care and custody of the probation officer of the receiving county.
  - c. The entire original court file, excluding exhibits or any records of payments, must be transmitted to the receiving court.  
If transfer is ordered in a case involving more than one defendant, the court must transmit certified copies of the entire original court file, excluding exhibits and any records of payment.
  - d. The probation officer of the transferring county must transmit, at a minimum, any court orders, probation or mandatory supervision reports, and case plans to the probation officer of the receiving county.
  - e. The probation officer of the transferring county must notify the supervised person of this transfer order.
  - f. The supervised person must report to the probation officer of the receiving county (*select one*):

☐ within 30 days of this order.  
☐ within (*specify*):          days of this order.  
☐ within 30 days of release from custody.  
☐ within (*specify*):          days of release from custody.
  - g. Any jail sentence imposed as a condition of probation or mandatory supervision prior to transfer must be served in the transferring county unless otherwise authorized by law.
  - h. If the transferring court has ordered the supervised person to pay fines, fees, forfeitures, penalties, assessments, or restitution, and those and any other amounts ordered by the court are still unpaid at the time of transfer, the supervised person is ordered to pay to the collection program for the transferring court for proper distribution and accounting once collected.

Date:

By:

(JUDICIAL OFFICER)

*FOR COURT USE ONLY*

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center; font-size: 2em;"><b>DRAFT</b></p> <p style="text-align: center; font-size: 1.5em;"><b>Not approved by the Judicial Council</b></p>
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____	
<p style="text-align: center;"><b>PROSECUTING AGENCY RESPONSE TO PETITION/APPLICATION (Health and Safety Code, § 11361.8) ADULT CRIME(S)</b></p>	CASE NUMBER: _____
	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> Date: _____ Time: _____ Department: _____

**PROSECUTING AGENCY RESPONSE**

- ☐ The prosecuting agency has no objection to this petition/application. Petitioner/applicant is entitled to the requested relief without a hearing.
- ☐ The prosecuting agency requests a hearing and objects to the granting of the petition/application because:
- ☐ Petitioner/applicant was not convicted of an eligible offense.
- ☐ Other: \_\_\_\_\_
- ☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
- ☐ The prosecuting agency does not object to the petitioner's/applicant's eligibility for relief, but requests a hearing on the issue of resentencing.

Dated: \_\_\_\_\_



SIGNATURE OF PROSECUTING ATTORNEY \_\_\_\_\_

PEOPLE OF THE STATE OF CALIFORNIA v DEFENDANT:

CASE NUMBER:

**PROOF OF SERVICE  
FOR PROSECUTING AGENCY RESPONSE  
Method of Service (only one):**

☐ **Personal Service**☐ **Mail**

1. Person serving: I am over the age of 18 and not a party to this action.
  - a. Name:
  - b. Residence or Business Address:
  - c. Telephone:
2. I served a copy of the **Prosecuting Agency Response to Petition/Application** on the person or persons listed below as follows:
  - a. Name of person served:
  - b. Address where served:
  - c. Date Served:
  - d. Time Served: ☐ AM ☐ PM
3. The documents were served by the following means (*specify*):
  - a. ☐ **by personal service.** I personally delivered the documents to the persons at the addresses listed in item 2. Delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening.
  - b. ☐ **by United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 2 and (*specify one*):
    - (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
    - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date:



SIGNATURE OF DECLARANT

(PRINTED NAME OF DECLARANT)