



# JUDICIAL COUNCIL OF CALIFORNIA

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## REPORT TO THE JUDICIAL COUNCIL

For business meeting on September 24, 2019

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**Title**

Family Law: Certification of Statewide  
Uniform Guideline Support Calculators

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

Amend Cal. Rules of Court, rule 5.275

**Recommended by**

Family and Juvenile Law Advisory  
Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2020

**Date of Report**

August 7, 2019

**Contact**

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### Executive Summary

The Family and Juvenile Law Advisory Committee proposes amending California Rules of Court, rule 5.275, to require guideline child support calculators to display the low-income adjustment range on the first page of the calculator results printout, if applicable per Family Code section 4055(b)(7), to improve consistency in child support calculations for low-income obligors, and to delete the requirement to submit an application form and fee for certification to better align with current practice for certifying guideline calculators.

### Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2020, amend California Rules of Court:

1. Rule 5.275(b), to add a provision requiring the printout of the calculation results to display the range of the low-income adjustment as permitted by Family Code section 4055(b)(7) on the first page of the results, if the low-income adjustment applies; and
2. Rule 5.275(i), to remove the requirement for guideline software developers to submit an application form supplied by the Judicial Council and a fee for certification of the software.

The text of the amended rule is attached at page 5.

### **Relevant Previous Council Action**

Rule 5.275 was adopted by the Judicial Council as rule 1258, effective December 1, 1993. It was amended, effective January 1, 2000, to add a subsection clarifying that all certified support calculators are acceptable in superior courts to avoid giving preference to a particular software. It was further amended to mandate the use of the California Department of Child Support Services calculator for all title IV-D child support proceedings, effective January 1, 2009. Most recently, the council amended rule 5.275, effective January 1, 2016, to add a provision defining *software*.

### **Analysis/Rationale**

#### **Inconsistent application of the low-income adjustment**

Family Code section 4055(b)(7) states that there is a rebuttable presumption that obligors with a net monthly income of less than \$1,500 (adjusted annually for cost-of-living increases) are entitled to a low-income adjustment to reduce their child support obligation. Under Family Code section 4055(c), the low-income adjustment is displayed on guideline child support software programs as a range, with the high end of the range being the unadjusted guideline support amount and the low end being the lowest amount of support allowed under Family Code section 4055(b)(7).

The *Review of Statewide Uniform Child Support Guideline 2017* observed, based on the review of case files and discussions with focus group participants, that the application of the low-income adjustment is inconsistent among judicial officers and that uniformity in how the low-income adjustment range is displayed on guideline child support calculators could lead to more consistency in its application. Family Code section 4055(c) does not specify how the range is to be displayed. Consequently, because the six currently approved guideline child support software programs vary in how each displays the low-income adjustment range, the range may be more apparent on some programs than on others, which may be a cause of the inconsistent application of the low-income adjustment. Requiring all printouts of guideline calculator results to display the low-income adjustment range on the first page should serve to remedy this problem. Because some calculators offer multiple types of reports to display the calculator results, the proposed rule would mandate that the low-income adjustment range be displayed only on the first page of the report that shows the user inputs. This type of report generally is the most common type used to show the guideline child support amount for court proceedings.

Under Family Code section 3830, the council has the authority to mandate how the low-income adjustment is displayed. The statute requires courts to use only guideline child support software that “conforms to rules of court adopted by the Judicial Council prescribing standards for the software.” These standards are established by rule 5.275. Since the rule’s adoption in December 1993, the council each year has certified guideline child support software that meets the standards. Under rule 5.275(c), the certifications last for one year, and then the software must be recertified to continue to be approved for court use. Amending rule 5.275 to standardize how the

low-income adjustment range is displayed will bring about greater uniformity among the support calculators, thereby promoting more consistent application of the low-income adjustment by judicial officers.

### **Provision regarding application form and fee not aligned with current practice**

Additionally, rule 5.275(i) requires that software developers complete and submit an application form supplied by the Judicial Council, along with an application fee of \$250, to be certified. For the past several years, the Judicial Council's AB 1058 Program has been responsible for the certification of software. In practice, developers wishing to have their guideline child support software certified have communicated directly with AB 1058 Program staff rather than through an application form. Moreover, because the AB 1058 Program is federally funded, fees that are collected have to be forwarded to the federal government rather than used to offset the costs of certifying the software. As such, the AB 1058 Program has returned all application fees. To align with current practice, the committee proposes amending subdivision (i) to remove the requirement to submit an application form and fee to the Judicial Council to be certified and to replace it with a requirement that any person seeking certification of software must apply in writing to the Judicial Council, but not on any specified form.

### **Policy implications**

Because these recommendations improve litigants' access to appropriate child support orders based on a litigant's individual economic circumstances, they support Goal I, Access, Fairness, and Diversity, of the council's Strategic Plan for California's Judicial Branch.

### **Comments**

This proposal circulated for comment as part of the spring 2019 invitation-to-comment cycle, from April 12 to June 10, 2019, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocate programs, and other juvenile and family law professionals. The proposal also went to the Department of Child Support Services, the chairs of the Child Support Directors Association of California's Legal Practices Committee and Judicial Council Forms Subcommittee, and child support commissioners.

Seven organizations provided comment: six agreed with the proposal and one did not indicate a position but provided comments. A chart with the full text of the comments received and the committee's responses is attached at pages 6–10. Commenters agreed that the proposal would lead to greater uniformity in the application of the low-income adjustment. One commenter added that the proposal would benefit self-represented litigants.

### **Alternatives considered**

The committee considered making no changes to rule 5.275. Adding a provision requiring the low-income adjustment range to be displayed on the first page of the results printout will require some developers to make programmatic changes to their software. If making these changes is

overly burdensome, developers could stop providing their product to California. However, none of the current guideline calculator software developers expressed any concerns with adjusting their programs to display the low-income adjustment range on the first page of the printout, and in fact one developer, the California Department of Child Support Services, submitted a comment in support of the proposal. As such, the committee determined that adding this requirement to rule 5.275 was unlikely to be burdensome to the developers and should serve to increase consistency in the application of the low-income adjustment.

The committee also considered not changing subdivision (i) of the rule, which requires developers to submit an application form and \$250 fee to have their software certified. Given the challenges for a federally funded program to accept a fee and given the program's current practice of not using a specific application form, the committee opted to propose amending the subdivision to align with current practice.

### **Fiscal and Operational Impacts**

The committee anticipates that this proposal will neither result in any costs to the branch, nor any requirements for implementation—or fiscal or operational impacts on the courts.

### **Attachments and Links**

1. Cal. Rules of Court, rule 5.275, at page 5
2. Chart of comments, at pages 6–10
3. Link A: Fam. Code, § 4055,  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=4055.&lawCode=FAM](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4055.&lawCode=FAM)
4. Link B: Fam. Code, § 3830,  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=3830.&lawCode=FAM](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3830.&lawCode=FAM)

Rule 5.275 of the California Rules of Court would be amended, effective January 1, 2020, to read:

**Rule 5.275. Standards for computer software to assist in determining support**

**(a) \* \* \***

**(b) Standards**

The standards for computer software to assist in determining the appropriate amount of child or spousal support are:

(1)–(5) \* \* \*

(6) The printout of the calculator results must display, on the first page of the results, the range of the low-income adjustment as permitted by Family Code section 4055(b)(7), if the low-income adjustment applies. If the software generates more than one report of the calculator results, the range of the low-income adjustment only must be displayed on the report that includes the user inputs.

~~(6)~~ (7) The software or a license to use the software must be available to persons without restriction based on profession or occupation.

~~(7)~~ (8) The sale or donation of software or a license to use the software to a court or a judicial officer must include a license, without additional charge, to the court or judicial officer to permit an additional copy of the software to be installed on a computer to be made available by the court or judicial officer to members of the public.

**(c)–(h) \* \* \***

**(i) Application**

~~An application for certification must be on a form supplied by the Judicial Council and must be accompanied by an application fee of \$250. A person seeking certification of software must apply in writing to the Judicial Council.~~

**(j) \* \* \***

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Department of Child Support Services by Selis Koker, Attorney III	A	The department supports the Family and Juvenile Law Advisory Committee's proposal to amend California Rules of Court, rule 5.275, to require guideline child support calculators to display the low-income adjustment range on the first page of the calculator results printout. The low-income adjustment range is already displayed on the first page of the department's guideline calculator "Calculation Results Summary" page when the low-income adjustment is applicable based on the support obligor's net income under Family Code section 4055(b)(7). We believe requiring all support calculators to display the low-income range when applicable will help the courts uniformly apply the low-income adjustment.  The department also supports the proposal to delete the requirement to submit an application form and fee for certification of support calculators. We have been communicating directly with AB 1058 Program staff for the department guideline calculator's annual certification, which has been a very efficient process.	No response required.
2.	California Lawyers Association, Family Law Section, Executive Committee	A	N/A	No response required.
3.	Child Support Directors' Association of California by Ronald Ladage Chair, CSDA Judicial Council Forms Committee Director/Chief Attorney, El Dorado County Department of Child Support	A	The CA DCSS guideline calculator printout currently displays the low-income adjustment range on the first page of the results when the adjustment applies. The committee agrees that displaying the adjustment on the first page is a good reminder to courts that use of the adjustment is a rebuttable presumption under	No response required.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	Services		Family Code §4055.	
4.	Orange County Bar Association by Deidre Kelly, President	A	The proposal appropriately addresses the stated purpose.  No further rules/forms changes are needed.	No response required.
5.	Superior Court of California, County of Los Angeles	A	Are there specific changes that would improve the proposed rule? If so, please specify the recommended changes.  No specific changes are needed.  Does the proposal appropriately address the stated purpose?  Yes, the proposal addresses the stated purpose. What is the impact of this proposal on low- and moderate-income persons?  This proposal provides more uniformity in orders between courtrooms, and across the state.  The advisory committee also seeks comments from courts on the following cost and implementation matters:  Would the proposal provide cost savings? If so please quantify.  We do not anticipate cost savings.  What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of	No response required.

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			<p>training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</p> <p>Implementation requirements include training of Judicial Officers, Research Attorneys, and Self-Help staff.</p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Three months would be sufficient for the court. Implementation time for the software developers is unknown.</p> <p>How well would this proposal work in courts of different sizes?</p> <p>Impact should be similar for courts of different sizes.</p>	
6.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	A	<p>Q: Are there specific changes that would improve the proposed rule? If so, please specify the recommended changes.</p> <p>No.</p> <p>Q: Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p> <p>Q: What is the impact of this proposal on low-</p>	No response required.



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	Commentator	Position	Comment	Committee Response
			<p>and moderate-income persons?</p> <p>Consistent application of the low-income adjustment.</p> <p>Q: Would the proposal provide cost savings? If so, please quantify.</p> <p>No.</p> <p>Q: 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>Notifying judicial officers and staff.</p> <p>Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>Yes.</p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>It appears that the proposal would work for courts of all sizes.</p> <p>No additional comments.</p>	
7.	Superior Court of California, County of San Francisco, ACCESS Center	NI	Requiring low income adjustment info on the first page of all c/s calculations would be	No response required.

## SPR19-29

### Family Law: Certification of Statewide Uniform Guideline Support Calculators (Amend Cal. Rules of Court, rule 5.275)

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	Commentator	Position	Comment	Committee Response
	by Judy B. Louie, Director/Family Law Facilitator		helpful to SRLs.	