



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 20-119*

For business meeting on: September 25, 2020

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**Title**

Criminal Procedure: Intercounty Probation  
and Mandatory Supervision Transfer

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

Amend Cal. Rules of Court, rule 4.530

**Recommended by**

Criminal Law Advisory Committee  
Hon. J. Richard Couzens, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2021

**Date of Report**

September 25, 2020

**Contact**

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### Executive Summary

The Criminal Law Advisory Committee, in response to a suggestion by a judicial administrator, recommends amending rule 4.530 of the California Rules of Court to increase clarity concerning certified copies of the court file and the electronic transfer of court files.

### Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2021, amend California Rules of Court, rule 4.530, by adding two paragraphs to subdivision (g) stating that on transfer, only the receiving court may certify copies from the court file; and that a certified copy of the entire court file may be electronically transmitted if an original court file does not exist, and if the receiving court receives a certified copy of the entire court file from the transferring court, it must be deemed an original file.

The amended rule is attached at page 3.

## **Relevant Previous Council Action**

The Judicial Council adopted rule 4.530 effective July 1, 2010, and the rule was most recently amended effective January 1, 2017 to clarify file transfer requirements after intercounty transfer under Penal Code section 1203.9.

## **Analysis/Rationale**

A judicial administrator stated that there was a lack of clarity around whether the transferring or receiving court may certify records from a case, when, for example, a district attorney requests a certified copy of conviction documents. Under Penal Code section 1203.9(b), the receiving court has entire jurisdiction over the case once the transfer is ordered. Hence, the committee recommends amending the rule to clarify that only the receiving court may certify records in the case.

The rule's requirement for a court to transfer the original file does not address how to transfer a file through an electronic case management system, where no original paper file exists. The committee recommends amending the rule to account for these systems.

## **Policy implications**

The recommended amendments aim to clarify confusion and a lack of consistency around the certification of transferred court records and reflect technological changes to case management systems.

## **Comments**

This proposal circulated for comment from April 10 to June 9, 2020, and received five comments. All commenters agreed with the proposal. A chart of comments received and the committee's response is on pages 4–7.

## **Alternatives considered**

The committee agreed that the two proposed changes added clarity to the administration of probation transfers and considered no alternatives.

## **Fiscal and Operational Impacts**

No fiscal or operational impacts are anticipated as a result of amending rule 4.530.

## **Attachments and Links**

1. Cal. Rules of Court, rule 4.530, at page 3
2. Chart of comments, at pages 4–7

Rule 4.530 of the California Rules of Court is amended, effective January 1, 2021, to read:

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

**(a)–(f) \* \* \***

**(g) Transfer**

**(1)–(5) \* \* \***

**(6)** A certified copy of the entire court file may be electronically transmitted if an original paper court file does not exist. Upon receipt of an electronically transmitted certified copy of the entire court file from the transferring court, the receiving court must deem it an original file.

**(7)** Upon transfer 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.

**(8)** Upon transfer of the case, the probation officer of the transferring county must notify the supervised person of the transfer order. The supervised person must report to the probation officer of the receiving county no later than 30 days after transfer unless the transferring court orders the supervised person to report sooner. If the supervised person is in custody at the time of transfer, the supervised person must report to the probation officer of the receiving county no later than 30 days after being released from custody unless the transferring court orders the supervised person to report sooner. 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.

**(9)** Upon transfer of the case, only the receiving court may certify copies from the case file.

**(h) \* \* \***

## SPR20-15

### Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend Cal. Rules of Court, rule 4.530)

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

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Scott B. Garner, President	A	No specific comment	No response required.
2.	Superior Court of Orange County Superior - Juvenile Court Division	A	<p>Rule 4.530 would amend the rule to clarify the appropriate roles between transferring and receiving courts in certifying transferred case records and accommodate modernized court practices due to electronic case management systems.</p> <p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes, this proposal appropriately addresses the stated purpose.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>This would not provide cost savings or add additional costs to the court.</p> <p><i>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?</i></p> <p>The implementation requirements for Orange County Superior Court would be to revise the Transfer In - Acceptance of Transfer and Transfer Out procedures and training the Legal</p>	<p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

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

## SPR20-15

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	Commenter	Position	Comment	Committee Response
			<p>Processing Specialists working with transfer matters for about 15-20 mins.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide enough time for implementation?</i></p> <p>Yes, three months would provide sufficient time for implementation. This would allow the courts to be able to make sure they are receiving the whole case from the transferring court.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>This would work well in court of different sizes but anyone requesting information from the case would just have to go to the court that has jurisdiction.</p>	<p>No response required.</p> <p>No response required.</p>
3.	Superior Court of Orange County	A	<p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes, the proposal merely clarifies two aspects of an existing rule of court.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>Allowing an electronic transmission of the court file, when applicable, decreases the use of paper, ink, postage, etc. Depending on the method of electronic submission, staff will not be required to track the package and image the receipt. Likewise, with the certification being limited to</p>	<p>No response required.</p> <p>No response required.</p>

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

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Commenter	Position	Comment	Committee Response
		<p>the receiving court, it would reduce the amount of certified documentation provided to the public specific to cases that are no longer in our jurisdiction.</p> <p><i>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?</i></p> <p>If electronic transmission is utilized, a process would need to be identified to establish the method of transmission depending on the location and capabilities of the receiving court. Staff processing PC 1203.9 transfers will require training to identify applicable cases and method of transmission. Additionally, a process would also need to be established for certification request staff to address and properly refer certification requests for cases no longer in our jurisdiction. Procedures would need to be updated accordingly.</p> <p><i>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Three months is sufficient time to establish a referral process for designated staff to address requests for cases which are no longer in our jurisdiction.</p>	<p>The committee appreciates this input.</p> <p>No response required.</p>

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			<i>How well would this proposal work in courts of different sizes?</i>  Courts of different sizes that provide certified records would be minimally impacted by the proposal.	No response required.
4.	Superior Court of San Diego County by Mike Roddy, Executive Officer	A	No specific comments	No response required.
5.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee - Joint Rules Subcommittee	A	The JRS notes the following impact to court operations: <ul style="list-style-type: none"><li>• Results in additional training, which requires the commitment of staff time and court resources.</li></ul> JRS also notes that the proposal should be implemented because it will provide statewide consistency.	No response required.

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