

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR12-16

Title	Action Requested
Criminal Procedure: Transcripts of Notification of Appeal Rights	Review and submit comments by June 15, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend rule 4.305 and revoke rule 4.470 of the California Rules of Court	January 1, 2013
Proposed by	Contact
Criminal Law Advisory Committee Hon. Steven Z. Perren	Arturo Castro, arturo.castro@jud.ca.gov , 415-865-7702

Executive Summary and Origin

The Criminal Law Advisory Committee proposes revoking rule 4.470 and amending rule 4.305 to delete a requirement that court reporters prepare, certify, and file transcripts of certain sentencing proceedings in all applicable cases. The committee developed the proposal in light of recent statutory amendments to Penal Code section 1203.01 that relieved courts from producing similar transcripts in every felony case resulting in a prison sentence.

Background

Rules 4.305 and 4.470 of the California Rules of Court require courts to advise defendants of certain appeal rights after imposing a sentence after a trial or contested probation violation hearing. The rules also require the following transcript requirement: “A reporter’s transcript of the proceedings required by this rule must be forthwith prepared and certified by the reporter and filed with the court.”

Rules 4.305 and 4.470 were originally adopted as rule 250 effective January 1, 1972. Rule 250 was designed to reduce late appeals and rebut defendants’ claims of ignorance of appeal requirements, including the deadline to file a notice of appeal. The rule was renumbered to rule 470 effective January 1, 1991, and renumbered again to 4.305 and 4.470 effective January 1, 2001, in conjunction with a broad rule reorganization that included the addition of divisions and chapters. Although the rule was renumbered to two rules in separate divisions, the text of both rules remains identical.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Proposal

The purpose of the proposal is twofold. First, the committee proposes deleting rule 4.470 as duplicative. As explained above, the rule was renumbered into two distinct rules in 2001 but the text of both rules is identical. Although each rule is under distinct divisions, the committee believes that two versions of the same rule are unnecessary and confusing. The committee proposes retaining rule 4.305 because it is located under a division entitled “Sentencing” and immediately precedes a similar rule for misdemeanors and infractions.

Second, recent legislation¹ revised Penal Code section 1203.01 to delete a requirement that court reporters produce transcripts of certain sentencing proceedings in every felony case resulting in a prison sentence. Section 1203.01 now requires production of transcripts only in capital and life cases, or upon request by certain parties. The revisions were designed to eliminate the costs associated with preparing transcripts unnecessarily.

In light of the recent statutory changes, the committee proposes deleting the transcript requirement from rule 4.305. The committee believes that requiring the production of transcripts in every applicable case is unnecessary, particularly in the absence of an appeal. If transcripts are needed later to rebut a defendant’s claim that the court failed to provide the required advisements, a trial or appellate court may still order production of the transcripts as needed because all proceedings at the time of sentencing must be reported. (Cal. Rules of Court, rule 4.431.) The proposal is intended to promote cost savings and efficiencies by eliminating the costs associated with preparing transcripts unnecessarily.

Implementation Requirements, Costs, and Operational Impacts

No costs or operational impacts are expected.

Attachments and Links

Rules 4.305 and 4.470 of the California Rules of Court

¹ Assem. Bill 110 (Blumenfield; Stats. 2011, ch. 193, p. 93).

Rules 4.305 and 4.470 of the California Rules of Court would be amended, effective January 1, 2013, to read:

1 **Rule 4.305. Notification of appeal rights in felony cases**

2
3 After imposing sentence or making an order deemed to be a final judgment in a criminal
4 case on conviction after trial, or after imposing sentence following a revocation of
5 probation, except where the revocation is after the defendant's admission of violation of
6 probation, the court must advise the defendant of his or her right to appeal, of the
7 necessary steps and time for taking an appeal, and of the right of an indigent defendant to
8 have counsel appointed by the reviewing court. ~~A reporter's transcript of the proceedings~~
9 ~~required by this rule must be forthwith prepared and certified by the reporter and filed~~
10 ~~with the clerk.~~

11
12 ~~**Rule 4.470. Notification of appeal rights in felony cases**~~

13
14 ~~After imposing sentence or making an order deemed to be a final judgment in a criminal~~
15 ~~case on conviction after trial, or after imposing sentence following a revocation of~~
16 ~~probation, except where the revocation is after the defendant's admission of violation of~~
17 ~~probation, the court must advise the defendant of his or her right to appeal, of the~~
18 ~~necessary steps and time for taking an appeal, and of the right of an indigent defendant to~~
19 ~~have counsel appointed by the reviewing court. A reporter's transcript of the proceedings~~
20 ~~required by this rule must be forthwith prepared and certified by the reporter and filed~~
21 ~~with the clerk.~~

22