

AMENDMENT TO THE CALIFORNIA RULES OF COURT
Adopted by the Judicial Council on May 12, 2023, effective May 15, 2023

1	Rule 4.130. Mental competency proceedings	2
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1 **Rule 4.130. Mental competency proceedings**

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3 (a)–(c) * * *

4
5 (d) **Examination of defendant after initiation of mental competency proceedings**

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7 (1) * * *

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9 (2) Any court-appointed experts must examine the defendant and advise the
10 court on the defendant’s competency to stand trial. Experts’ reports are to be
11 submitted to the court, counsel for the defendant, and the prosecution. The
12 report must include the following:

13
14 (A)–(D) * * *

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16 (E) Under Penal Code section 1369, a statement on whether treatment with
17 antipsychotic or other medication is medically appropriate for the
18 defendant, ~~whether the treatment is likely to restore the defendant to~~
19 ~~mental competence, a list of likely or potential side effects of the~~
20 ~~medication, the expected efficacy of the medication, possible~~
21 ~~alternative treatments, whether it is medically appropriate to administer~~
22 ~~antipsychotic or other medication in the county jail, and whether the~~
23 defendant has capacity to make decisions regarding antipsychotic or
24 other medication as outlined in Penal Code section 1370. If an
25 examining psychologist is of the opinion that a referral to a psychiatrist
26 is necessary to address these issues, the psychologist must inform the
27 court of this opinion and his or her recommendation that a psychiatrist
28 should examine the defendant; If a licensed psychologist examines the
29 defendant and opines that treatment with antipsychotic medication may
30 be appropriate, the psychologist’s opinion must be based on whether
31 the defendant has a mental disorder that is typically known to benefit
32 from that treatment. A licensed psychologist’s opinion must not exceed
33 the scope of their license. If a psychiatrist examines the defendant and
34 opines that treatment with antipsychotic medication is appropriate, the
35 psychiatrist must inform the court of their opinion as to the likely or
36 potential side effects of the medication, the expected efficacy of the
37 medication, and possible alternative treatments, as outlined in Penal
38 Code section 1370;

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40 (F) A list of all sources of information considered by the examiner,
41 including legal, medical, school, military, regional center, employment,
42 hospital, and psychiatric records; the evaluations of other experts; the
43 results of psychological testing; police reports; criminal history;

1 statement of the defendant; statements of any witnesses to the alleged
2 crime; booking information, mental health screenings, and mental
3 health records following the alleged crime; consultation with the
4 prosecutor and defendant's attorney; and any other collateral sources
5 considered by the examiner in reaching ~~his or her~~ a conclusion;
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7 (G)–(H) * * *

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9 (3) * * *

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11 *(Subd (d) amended effective May 15, 2023; previously amended effective January 1, 2018,*
12 *January 1, 2020, September 1, 2020, and May 13, 2022.)*

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14 (e)–(f) * * *

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16 **(g) Reinstatement of felony proceedings under section 1001.36~~(d)~~(g)**

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18 If a defendant eligible for commitment under section 1370 is granted diversion
19 under section 1001.36, and during the period of diversion, the court determines that
20 criminal proceedings should be reinstated under section 1001.36~~(d)~~(g), the court
21 must, under section 1369, appoint a psychiatrist, licensed psychologist, or any other
22 expert the court may deem appropriate, to examine the defendant and return a
23 report opining on the defendant's competence to stand trial. The expert's report
24 must be provided to counsel for the People and to the defendant's counsel.
25

26 (1) * * *

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28 (2) If the court finds by a preponderance of the evidence that the defendant is
29 mentally competent, the court must hold a hearing as set forth in Penal Code
30 section 1001.36~~(d)~~(g).
31

32 (3)–(4) * * *

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34 *(Subd (g) amended effective May 15, 2023; adopted effective January 1, 2020; previously*
35 *amended effective September 1, 2020, and May 13, 2022.)*

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37 **(h)**

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39 (1) * * *

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41 (2) On receipt of an evaluation report under (h)(1) or an evaluation by the State
42 Department of State Hospitals under Welfare and Institutions Code section
43 4335.2, the court must direct the clerk to serve a copy on counsel for the

1 People and counsel for the defendant. If, in the opinion of the appointed
2 expert or the department's expert, the defendant has regained competence,
3 the court must conduct a hearing, as if a certificate of restoration of
4 competence had been filed under section 1372(a)(1), ~~except that a~~
5 ~~presumption of competency does not apply.~~ At the hearing, the court may
6 consider any evidence, presented by any party, that is relevant to the question
7 of the defendant's current mental competency.

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9 (A)–(C) * * *

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11 *(Subd (h) amended effective May 15, 2023; adopted effective January 1, 2020; previously*
12 *amended effective May 13, 2022.)*

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14 *Rule 4.130 amended effective May 15, 2023; adopted effective January 1, 2007; previously*
15 *amended effective January 1, 2018, January 1, 2020, September 1, 2020, and May 13, 2022.*