



JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS
COMMITTEE

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ruprometings@jud.ca.gov

RULES AND PROJECTS COMMITTEE

OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING RECORDED

Date: Tuesday, November 6, 2018
Time: 4:00 p.m. to 5:00 p.m.
Location: Conference Call
Public Call-In Number 1-877-820-7831/Listen Only Code: 8254930

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

II. DISCUSSION AND POSSIBLE ACTION ITEMS

JUDICIAL COUNCIL

Item 01

Proposal to Amend Rules 10.500 and 10.620: Improve Online Access to Public Data (Action required – RUPRO action only)

Proposal submitted by: Advay Mengle, a member of the public.

CRIMINAL

Item 02

Criminal Procedure: Proper Use of Pretrial Risk Assessment Information; Review and Release Standards for Pretrial Assessment Services for Persons Assessed as Medium Risk (adopt rules 4.10 and 4.40) (Action required – approve for circulation)

Presenter: Eve Hershcopf and Kara Portnow

FAMILY AND JUVENILE

Item 03

Family and Juvenile Law Forms: Technical Changes (revise forms DV-800/JV-252, FL-150 and JV-690) (Action required – recommend for Judicial Council action)

Presenter: Audrey Fancy

III. ADJOURNMENT

Adjourn

In the Judicial Council of California
Proposal to Amend Rules 10.500 and 10.620,
California Rules of Court, to Improve Online Access to Public
Data

Proposed by:
Advay Mengle
August 31, 2018

Background

The right of the public to access administrative records and decisions of the judiciary is most conveniently exercised when this information is freely available online. Especially for unsophisticated or unrepresented members of the public, accessing public records by formally requesting them from a judicial officer can be intimidating. Furthermore, once a court has already performed the labor to produce records in an electronic format, all of the public (not just the original requestor) can benefit from that labor and the court can save time not manually fielding requests for it in the future. Finally, online publishing means the public can analyze and index the data in an aggregate fashion to make it more useful (find trends, look for malfeasance, etc.).

Current rules¹ regarding such public access are very limited in their demands of courts and other judicial branch entities to make information available on public websites. This proposal is a first step in requiring more online access.

Proposed Solution

The proposal is two-fold:

- Require judicial branch entities to publish online any administrative records already produced for a requestor in electronic format under Rule 10.500(i).
- Require trial courts to publish online any factual materials regarding administrative decisions that are already required to be made public under Rule 10.620(i).

Potential Problems

This proposal is fairly conservative:

1. The proposal does not require the judiciary to publish administrative records online unless they are already in an electronic format (the conditions of Rule 10.500(i)(1) are

¹ All references to rules herein are to the California Rules of Court.

unchanged by this proposal). Therefore, a large number of records (maintained only in physical form) that the public has a right to access would remain exempt from online publishing.

2. The proposal does not mandate the judiciary publish the records in open, non-proprietary electronic formats. Such formats ensure computer software vendors (that control proprietary formats) cannot restrict or manipulate the public's right of access.
3. The proposal fails to require proactive online publishing of all records that the public has a right to access. Someone would still have to make an initial request and potentially pay for the cost of the initial search and production.

However, such problems can be mitigated by future rule changes that broaden the scope of online publishing requirements incrementally, and these problems do not necessitate a delay in implementing the current proposal.

Need for Urgent Consideration

None known.

Fiscal Impacts

This proposal may both (1) reduce costs of repeated search and production of records requested more than once and (2) increase web hosting costs for storage of records published online. Details of fiscal impact are unknown.

Prior Related Actions

None known.

Contents of Proposed Amendments

Rule 10.500 (i) would be amended to read (~~deletions~~, insertions):

(i) Availability in electronic format

- (1) A judicial branch entity that has information that constitutes an identifiable judicial administrative record not exempt from disclosure under this rule and that is in an electronic format must, on request, produce that information in the electronic format requested, provided that:
 - (A) No law prohibits disclosure;
 - (B) The record already exists in the requested electronic format, or the judicial branch entity has previously produced the judicial administrative record in the requested format for its own use or for provision to other agencies;
 - (C) The requested electronic format is customary or standard for records of a similar type and is commercially available to private entity requesters; and

- (D) The disclosure does not jeopardize or compromise the security or integrity of the original record or the computer software on which the original record is maintained.
- (2) In addition to other fees imposed under this rule, the requester will bear the direct cost of producing a record if:
 - (A) In order to comply with (1), the judicial branch entity would be required to produce a record and the record is one that is produced only at otherwise regularly scheduled intervals or;
 - (B) Producing the requested record would require data compilation or extraction or any associated programming that the judicial branch entity is not required to perform under this rule but has agreed to perform in response to the request.
- (3) Nothing in this subdivision shall be construed to require a judicial branch entity to reconstruct a record in an electronic format if the judicial branch entity no longer has the record available in an electronic format.
- (4) A judicial branch entity that produces information in compliance with (1) must also publish that information on its public Web site. The original requester shall not bear any additional costs associated with such publication.

Rule 10.620 (i) would be amended to read (~~deletions~~, insertions):

(i)Materials

When a trial court is required to seek public input under (b), (c), or (d), it must also provide for public viewing at one or more locations in the county of any written factual materials that have been specifically gathered or prepared for the review at the time of making the decision of the person or entity making the decision. This subdivision does not require the disclosure of materials that are otherwise exempt from disclosure or would be exempt from disclosure under the state Public Records Act (beginning with Government Code section 6250). The materials must be mailed or otherwise be made available not less than five court days before the decision is to be made except if the request is made within the five court days before the decision is to be made, the materials must be mailed or otherwise be made available the next court day after the request is made. A court must ~~either~~ (1) provide copies to a person or entity that requests copies of these materials in writing or by electronic mail to the executive officer of the court or other person designated by the executive office in the notice, if the requesting person or entity pays all mailing and copying costs as determined by any mailing and copy cost recovery policies established by the trial court, ~~or~~ and (2) make all materials available electronically ~~either on its public Web site or by e-mail~~. This subdivision does not require the trial court to prepare reports. A person seeking documents may request the court to hold the material for pickup by that person instead of mailing.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Circulate for comment (out of cycle)**

RUPRO Meeting: November 6, 2018

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Criminal Procedure: Proper Use of Pretrial Risk Assessment Information; Review and Release Standards for Pretrial Assessment Services for Persons Assessed as Medium Risk

Committee or other entity submitting the proposal:

Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Eve Hershcopf, 415-865-7961, eve.hershcopf@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: Oct. 24, 2017

Project description from annual agenda: Recently enacted legislation: Review enacted legislation that may have an impact on criminal court administration and propose, for the council's consideration, rules and forms as may be appropriate for implementation of these initiatives and legislation.

If requesting July 1 or out of cycle, explain:

Recent legislation (SB 10), with an effective date of October 2019, mandates that the Judicial Council adopt rules and forms to implement pretrial reform. These rules will provide guidance to the trial courts as they plan for and implement the new pretrial release and detention system. The Criminal Law Advisory Committee identified two areas of required rulemaking as particularly time-sensitive: prescribing the proper use of risk assessment information when making pretrial release and detention decisions pursuant to section 1320.24(a)(1), and , prescribing local rule standards for Pretrial Assessment Services' prearraignment review and release of persons assessed as medium risk, and providing guidance for courts on additional local rule exclusions pursuant to sections 1320.11 and 1320.24(a)(4). Because the legislation requires courts to use pretrial risk assessment information when making release decisions and selecting release conditions, courts need clear advance guidance regarding the proper use of this information. Similarly, the legislation mandates each court to develop its own "medium risk" rule that is consistent with the California Rules of Court. It is therefore critical to develop and adopt the state rule regarding release of persons assessed as medium risk as quickly as possible so that courts can complete the local rule adoption process before the legislation's effective date of October 1, 2019.

Additional Information: (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

The Criminal Law Advisory Committee proposes to circulate these rules for public comment from November 7, 2018 through December 14, 2018.

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455 Golden Gate Avenue · San Francisco, California 94102-3688
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INVITATION TO COMMENT SP18-23

Title

Criminal Procedure: Proper Use of Pretrial Risk Assessment Information; Review and Release Standards for Pretrial Assessment Services for Persons Assessed as Medium Risk

Action Requested

Review and submit comments by December 14, 2018

Proposed Effective Date

March 15, 2019

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rules 4.10 and 4.40

Contact

Eve Hershcopf, 415-865-7961
Eve.Hershcopf@jud.ca.gov

Proposed by

Criminal Law Advisory Committee
Hon. Tricia A. Bigelow, Chair

Kara Portnow, 415-865-4961

Kara.Portnow@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes adoption of two new California Rules of Court: rule 4.10, which sets forth the proper use of pretrial risk assessment information, and rule 4.40, which addresses review and release standards for Pretrial Assessment Services for persons assessed as medium risk. These proposed rules are intended to fulfill the Judicial Council's obligation under Penal Code section 1320.24(a) to adopt rules and forms, as needed, to implement specific elements of Senate Bill 10.

Background

Senate Bill 10

On August 28, 2018, the Governor signed Senate Bill 10 (Hertzberg; Stats. 2018, ch. 244), (Pen. Code, § 1320.7, et seq.¹), legislation that, effective October 1, 2019, eliminates the use of cash bail and bail bonds. The legislation requires each court to establish Pretrial Assessment Services² to conduct pretrial risk assessments³ of most arrested persons using a validated risk assessment

¹ All statutory references are to the Penal Code except as otherwise noted.

² See § 1320.7(g).

³ See § 1320.7(f).

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.

tool,⁴ make prearrest release decisions where authorized, report the risk assessment scores⁵ and supplemental information to the court, and make recommendations for conditions of release. Courts may also choose to have judicial officers or subordinate judicial officers conduct prearrest reviews using information in the pretrial risk assessment reports prepared by Pretrial Assessment Services. (Pen. Code, §§ 1320.7(a); 1320.13.)

Under the new legislation, most persons arrested and detained for misdemeanors—except for those who fall within the exclusions listed in section 1320.10(e)—must be booked and released within 12 hours of arrest by a booking agency without a risk assessment by Pretrial Assessment Services. (Pen. Code, § 1320.8.) Persons arrested for misdemeanors who meet one of the exclusions listed in section 1320.10(e) and all persons arrested for felonies must have a prearrest risk assessment by Pretrial Assessment Services within 24 hours of arrest. (Pen. Code, § 1320.9.)

Screening by Pretrial Assessment Services will include administering a validated risk assessment tool. The score from this tool will designate whether a person is “low risk,” “medium risk,” or “high risk.” Prearrest release of arrested persons will depend on their assessed risk level, determined by their score from the risk assessment tool and other information gathered from an investigation done by Pretrial Assessment Services, as follows:

- Low risk⁶: Pretrial Assessment Services must release persons assessed as low risk prior to arraignment, on their own recognizance⁷ except for those persons arrested for misdemeanors or felonies who fall within the exclusions listed in section 1320.10(e). (Pen. Code, § 1320.10(b).)
- Medium risk⁸: Pretrial Assessment Services has authority to release on own recognizance or supervised own recognizance,⁹ or detain prearrest, except for those persons subject to one of the exclusions listed in section 1320.10(e) or additional exclusions that may be included by a local court rule.¹⁰ (Pen. Code, § 1320.10(c).)
- High risk¹¹: Pretrial Assessment Services—and the court, if the court provides prearrest review—is not authorized to release persons assessed as “high risk.” Under sections 1320.10(e) and 1320.13(b), these persons must be held until arraignment when the court will make a release determination and set conditions of release, if applicable.

⁴ See § 1320.7(k).

⁵ See § 1320.7(i).

⁶ See § 1320.7(c).

⁷ See § 1320.7(e).

⁸ See § 1320.7(d).

⁹ See § 1320.7(j).

¹⁰ The local rule of court must be consistent with the California Rules of Court adopted by the Judicial Council pursuant to section 1320.24(a).

¹¹ See § 1320.7(b).

At arraignment, the court must release all persons with the least restrictive nonmonetary conditions that will reasonably assure public safety and the defendant's return to court unless the prosecutor files a motion for preventive detention in accordance with section 1320.18. (Pen. Code, § 1320.17.) The preventive detention hearing must be held within three court days of the motion if the defendant is in custody. The court must order the defendant released unless the court finds that detention is permitted under the United States and California Constitutions, and determines by clear and convincing evidence that no nonmonetary conditions of pretrial supervision will reasonably assure public safety or the appearance of the defendant in court as required. (Pen. Code, § 1320.20(d)(1).)

Judicial Council responsibilities

Senate Bill 10 places numerous responsibilities on the Judicial Council including the adoption of California Rules of Court and Judicial Council forms, as needed, to aid in implementing the legislation. (Pen. Code, § 1320.24(a).) The Judicial Council's Criminal Law Advisory Committee is responsible for making recommendations to the Judicial Council for improving the administration of justice in criminal proceedings by proposing rules and forms related to criminal law and procedure. (Cal. Rules of Court, rule 10.42.) The Criminal Law Advisory Committee identified two areas of required rulemaking as particularly time-sensitive: prescribing the proper use of risk assessment information when making pretrial release and detention decisions pursuant to section 1320.24(a)(1); and prescribing local rule standards for Pretrial Assessment Services' prearraignment review and release of persons assessed as medium risk, and providing guidance for courts on additional local rule exclusions pursuant to sections 1320.11 and 1320.24(a)(4).

Because the legislation requires courts to use pretrial risk assessment information when making release decisions and selecting release conditions, courts need clear advance guidance regarding the proper use of this information. Similarly, the legislation mandates each court to develop its own "medium risk" rule that is consistent with the California Rules of Court. It is therefore critical to develop and adopt the state rule regarding release of persons assessed as medium risk as quickly as possible so that courts can complete the local rule adoption process before the legislation's effective date of October 1, 2019.

The Proposal

To help courts implement the new legislation, the committee recommends that the Judicial Council adopt two California Rules of Court: rule 4.10, the proper use of pretrial risk assessment information, and rule 4.40, review and release standards for Pretrial Assessment Services for persons assessed as medium risk.

Proper use of risk assessment information by the court (rule 4.10)

Section 1320.24(a)(1) requires the Judicial Council to adopt rules and forms, as needed, to:

[p]rescribe the proper use of pretrial risk assessment information by the court when making pretrial release and detention decisions that take into consideration the safety of the public and victims, the due process rights of the defendant, specific characteristics or

needs of the defendant, and availability of local resources to effectively supervise individuals while maximizing efficiency.

In developing proposed rule 4.10 to fulfill this obligation, the committee drew on Standards of Judicial Administration, [standard 4.35](#): “Court use of risk/needs assessments at sentencing,” adopted by the Judicial Council effective January 1, 2018. Although pretrial risk assessment serves a different purpose than a risk/needs assessment at sentencing, the committee recognized that they share certain commonalities. The committee structured proposed rule 4.10 to include “Application and purpose,” “Proper use of pretrial risk assessment information,” and “Improper uses of pretrial risk assessment information.”

- Subdivision (a) confirms that pretrial risk assessment information is intended to assist Pretrial Assessment Services and the court to make appropriate release and detention decisions, to identify the least restrictive nonmonetary conditions of release, and to address any biases in pretrial release and detention decisions.
- Subsections (b)(1) and (b)(2) require Pretrial Assessment Services and the court to give significant weight to the risk assessment score while also considering additional information from the pretrial investigation.
- Subsection (b)(3) clarifies that the risk score, while not determinative, is a relevant factor in assessing for pretrial release, appropriate conditions of release, and responses to violations of release conditions.
- Subsection (b)(4) prohibits the court from relying on a risk score or other information that is no longer accurate or relevant.
- Subsection (b)(5) requires the court to consider the limitations of risk assessment tools and to be aware that risk assessment tools are designed to identify the likelihood of risk for groups of individuals with certain shared characteristics, such as criminal history, but cannot predict the future behavior of a particular individual. That subsection also instructs the court to consider whether any scientific research has raised questions that the particular instrument used by Pretrial Assessment Services unfairly classifies offenders based on race, ethnicity, gender, or income level, and whether the tool has been validated on a relevant population.
- Subsection (b)(6) requires the court to retain pretrial risk assessment information in the confidential portion of the court’s file or by filing it under seal, with access to the information solely by authorized persons, or by order of the court.
- Subdivision (c), which addresses improper uses of pretrial risk assessment information, instructs courts to consider the results of the risk assessment without imposing standardized or predetermined conditions based on risk level.

- Subsection (c)(2) limits consideration of the risk of reoffense to the pretrial stage and prohibits consideration of long-term risk of reoffense.
- Subsection (c)(3) prohibits courts from placing undue emphasis on factors that the risk assessment tool already incorporates and weighs.

Review and release standards for Pretrial Assessment Services for persons assessed as medium risk (rule 4.40)

Under section 1320.10(c), Pretrial Assessment Services has authority to release persons assessed as medium risk—except for those who fall within the exclusions listed in 1320.10(e)—with the least restrictive nonmonetary conditions that will reasonably assure public safety and return to court, or to detain those persons prearrest. However, Pretrial Assessment Services may only release in accordance with the review and release standards set forth in a local rule of court, as required under section 1320.11. This local rule may expand the list of exclusions for persons assessed as medium risk that Pretrial Assessment Services is not permitted to release, but the court is prohibited from excluding all persons assessed as medium risk from prearrest release by Pretrial Assessment Services.

Proposed rule 4.40 also provides guidance on the review and release standards for Pretrial Assessment Services for persons assessed as medium risk and the parameters for the local rule of court. In developing proposed rule 4.40, the committee structured the rule into five subdivisions: “Purpose and application,” “Review requirements,” “Setting of release conditions,” “Considerations for expanding the list of exclusions,” and “Local rule development and annual review.”

- Subdivision (a) sets forth the statutory basis for the rule and emphasizes the legislative intent to encourage pretrial release when appropriate.
- Subdivision (b) directs courts to include specific review requirements for Pretrial Assessment Services, including the mandate to give significant weight to the risk assessment score but also to consider relevant supplementary information, and to include the reasons for the decision to release or to detain in its risk assessment report, pursuant to section 1320.9.
- Subdivision (c) requires Pretrial Assessment Services to exercise independent judgment and to tailor release conditions to the individual person. This subdivision provides a nonexhaustive list of release conditions that Pretrial Assessment Services must consider, and reiterates that those conditions must be limited to the least restrictive ones necessary to reasonably assure public safety and the person’s return to court.

- Subsection (c)(7) requires Pretrial Assessment Services to access every reasonably available resource to encourage successful pretrial release and to avoid unnecessary conditions of supervision.
- Subsection (c)(8) prohibits Pretrial Assessment Services from denying release based on the unavailability of any particular resource, unless there is no condition or combination of conditions that will reasonably protect the public and assure the defendant’s future appearance in court, and from imposing conditions that have rehabilitative objectives related to postconviction supervision.
- Subdivision (d) clarifies that a court may, but is not required to, expand the list of exclusions for prearrest release of medium-risk persons. This subdivision also requires that any added exclusion must uphold the goals of public safety and appearance in court. It prohibits factors weighed by the risk assessment tool or based on a status condition such as homelessness or mental illness. This subdivision emphasizes the statutory prohibition against an exclusion that would prevent all or nearly all persons assessed as medium risk from being released prior to arraignment and requires courts to consider whether an added exclusion would increase disparity in detention rates of ethnic or racial minorities or other inappropriate demographic within the local population.
- Subdivision (e) addresses procedures for adopting the local rule.
- Subsection (e)(1), pursuant to section 1320.11, requires courts to consult with Pretrial Assessment Services and other justice system partners when developing the local rule, and to consult with local resource providers, as appropriate, including the county behavioral health agency and community-based organizations that provide support for defendants and for victims, and to seek guidance on evidence-based practices from relevant agencies and organizations.
- Subsection (e)(2) requires courts to annually review their local rule and to examine whether the local rule has disproportionately impacted certain groups that are overrepresented in the criminal justice system. This subdivision requires courts to submit an annual report to the Judicial Council that describes the process for consulting with stakeholders, and documents the data and findings generated by the review.

Alternatives Considered

Section 1320.24(a) mandates the Judicial Council to adopt California Rules of Court and forms, “as needed” to accomplish all of the purposes set forth in that subdivision. The committee considered whether rules of court are necessary to accomplish the requirements set forth in subdivisions (a)(1) and (a)(4) and determined that they were, and so has developed proposed rules 4.10 and 4.40.

The committee considered whether to include a provision in rule 4.10 that addressed subsequent use of the risk assessment information. Specifically, the committee considered restricting the use of the risk assessment information “for any purpose other than a determination of pretrial release or release or detention in the current proceeding, or conditions of release, unless both parties otherwise stipulate.” Alternatively, the committee considered including an exception to this restriction for impeachment purposes. The committee decided not to include a directive on this point, reasoning that the case law interpreting constitutional and statutory mandates will determine whether and how information included in a pretrial risk assessment report can be used in a subsequent proceeding. The committee would, however, appreciate comments on this question.

The committee also considered whether to define “criminal history,” as used in rule 4.40(b)(3)(B), to exclude arrests that did not result in the filing of charges. The committee decided not to include a definition but would appreciate comments on this issue.

Fiscal and Operational Impacts

Senate Bill 10 requires courts to establish Pretrial Assessment Services and implement procedures for prearrest review and pretrial determinations of release or detention. These requirements will likely have substantial operational impacts and implementation requirements for courts and justice system partners. It is anticipated that the two rules proposed here, however, will provide useful guidance to courts regarding implementation of certain essential elements of pretrial release and will not, in and of themselves, have substantial costs or operational impact. Each of the proposed rules will require implementation by the courts. Proposed rule 4.40 will require the courts to develop a local rule and to provide an annual report to the Judicial Council on the impact of the local rule.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Does the proposal appropriately consider the criteria articulated by SB 10 regarding the rules required by section 1320.10(a)(1) and 1320.10(a)(4)?
- Should proposed rule 4.10 provide more specificity regarding considerations for:
 - The safety of the public and victims;
 - The due process rights of the defendant;
 - The specific characteristics or needs of the defendant; and
 - The availability of local resources to effectively supervise individuals while maximizing efficiency?
- Should rule 4.10 include guidance regarding use of pretrial assessment information in subsequent proceedings? If so, what should the guidance provide?
- Should proposed rule 4.40 provide more specificity regarding review and release standards for Pretrial Assessment Services for persons assessed as medium risk and eligible for prearrestment release? If so, what specific standards should be added?
- Does rule 4.40 support an effective and efficient pretrial release or detention system that:
 - Protects public safety; and
 - Respects the due process rights of defendants?
- Should proposed rule 4.40 provide more specificity regarding considerations for:
 - The safety of the public and victims;
 - The due process rights of the defendant; and
 - The availability of local resources to effectively supervise individuals while maximizing efficiency?
- Should criminal history, as used in rule 4.40(a)(3)(B), exclude arrests that did not result in the filing of charges?
- Does rule 4.40 appropriately provide for the local rule to further expand the list of offenses and factors for which prearrestment release of persons assessed as medium risk is not permitted?
- Does rule 4.40 appropriately constrain the local rule from excluding the release of all or nearly all persons assessed as medium risk?
- Does rule 4.40 appropriately provide for courts to consider, on an annual basis, the impact of the court's local rule on:
 - Public safety;
 - The due process rights of defendants; and
 - The preceding year's implementation of the rule?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the two proposed rules provide cost savings or significant additional expense? If so, please quantify.
- 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 codes in case management systems, or modifying case management systems.
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 4.10 and 4.40, at pages 10–16
2. Sen. Bill 10 (Stats. 2018, ch. 244),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB10

Rules 4.10 and 4.40 of the California Rules of Court would be adopted, effective March 15, 2019, to read:

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Title 4. Criminal Rules

Division 2. Pretrial

Chapter 1. Pretrial Proceedings

Rule 4.10. Proper use of pretrial risk assessment information

(a) Application and purpose

- (1) This rule governs the proper use of risk assessment information by Pretrial Assessment Services and by the court when making pretrial release and detention decisions, and when selecting appropriate release conditions.
- (2) The use of pretrial risk assessment information is intended to:
 - (A) Increase public safety and the likelihood of a defendant's return to court by assisting Pretrial Assessment Services and the court to make release and detention decisions;
 - (B) Identify the least restrictive nonmonetary conditions of release through the use of evidence-based pretrial release and supervision practices; and
 - (C) Address any biases in pretrial release and detention decisions.

(b) Proper use of pretrial risk assessment information

- (1) Consistent with the provisions of Penal Code section 1320.07 et seq. prescribing release with appropriate conditions, Pretrial Assessment Services and the court must give significant weight to the risk assessment score and consider information from the pretrial investigation. Pretrial Assessment Services and the court must also consider:
 - (A) The safety of the public;
 - (B) The safety and rights of the victim;
 - (C) The rights of the defendant;
 - (D) The specific characteristics, interests, or needs of the defendant; and

- 1 (E) The particular conditions of release and the availability of local
2 resources that will maximize the efficiency and effectiveness of pretrial
3 release.
4
- 5 (2) Pretrial Assessment Services and the court must consider the risk score in
6 context with all other available information, including comments, if any, by
7 law enforcement, counsel, the defendant, or a victim. The absence of
8 comment by the victim must not be a basis for denying release.
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- 10 (3) The risk score is not determinative but is a relevant factor in assessing:
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- 12 (A) Whether a defendant can be released in the community during the
13 pretrial period;
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- 15 (B) The appropriate conditions of release and the appropriate responses to
16 violations of release conditions; and
17
- 18 (C) Whether a person who is presumptively ineligible for prearrestment or
19 pretrial release has overcome the presumption in Penal Code sections
20 1320.13(i) or 1320.20(a).
21
- 22 (4) Pretrial Assessment Services must provide the court with the date(s) of the
23 investigation and, to the extent possible, must confirm the accuracy of the
24 information in the pretrial investigation report. When making a release
25 determination or when considering a request to modify release conditions, the
26 court must not rely upon a risk score or other information in the pretrial
27 investigation report that is no longer accurate or relevant.
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- 29 (5) The court must consider any limitations of risk assessment tools in general,
30 and any limitations of the particular risk assessment tool used by Pretrial
31 Assessment Services, including:
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- 33 (A) That the instrument's risk scores are based on group data, and that the
34 instrument is designed to identify the likelihood of risk for groups of
35 individuals with certain characteristics, but cannot predict the future
36 behavior of a particular individual;
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- 38 (B) Whether the instrument's proprietary nature has been invoked to
39 prevent the disclosure of information relating to how it weighs risk
40 factors and how it determines risk scores;
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1 (C) Whether any scientific research has raised questions that the particular
2 instrument unfairly classifies offenders based on race, ethnicity, gender,
3 or income level; and

4
5 (D) Whether the particular instrument has been validated on a relevant
6 population.

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8 (6) The court must place pretrial risk assessment information provided to the
9 court in the confidential portion of the court's file or filed under seal. The
10 information must be retained in a secure manner that prevents access to the
11 information except by the parties, counsel for the parties, by Pretrial
12 Assessment Services and the court, or by order of the court.

13
14 (c) **Improper uses of pretrial risk assessment information**

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16 (1) Pretrial Assessment Services and the court must not use the risk score as the
17 sole basis to detain or release a person other than as required by Penal Code
18 section 1320.10(b) and 1320.13(b)(1), nor subject a person to any particular
19 or predetermined conditions of release other than those included in Penal
20 Code section 1320.10(g) for release by Pretrial Assessment Services and
21 section 1320.13(f) for release by the court respectively. The court and Pretrial
22 Assessment Services must determine whether to release a person and set
23 conditions of release based on an individualized evaluation of the person and
24 the particular circumstances of the case.

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26 (2) Pretrial Assessment Services and the court must consider the risk score and
27 any additional risk assessment information to facilitate release decisions, but
28 the risk score must not be used as a substitute for sound independent
29 judgment. In evaluating the risk to public safety, Pretrial Assessment
30 Services and the court must consider only the risk of reoffense during the
31 pretrial stage of the case, and not the long-term risk of reoffense.

32
33 (3) The validated risk assessment tool used by Pretrial Assessment Services is
34 scientifically designed to weigh certain factors as they relate to risk. The
35 court must be familiar with the factors included in the particular risk
36 assessment tool used by Pretrial Assessment Services and must not give
37 additional undue weight to these factors when making release and detention
38 decisions.

39
40 **Rule 4.40 Review and release standards for Pretrial Assessment Services for**
41 **persons assessed as medium risk**

1 **(a) Purpose and application**
2

3 (1) Penal Code section 1320.24(a)(4) requires the Judicial Council to adopt a rule
4 of court that prescribes the parameters of local rules that superior courts must
5 adopt under Penal Code section 1320.11(a) to set review and release
6 standards for Pretrial Assessment Services for persons assessed as medium
7 risk. This rule is intended to fulfill this requirement.
8

9 (2) Each local rule must authorize release for as many arrested persons as
10 possible, while reasonably assuring public safety and appearance in court as
11 required.
12

13 **(b) Review requirements**
14

15 Each local rule must include the following review requirements:
16

17 (1) Pretrial Assessment Services must use the risk assessment information in
18 accordance with the proper use of such information as specified in rule 4.10.
19

20 (2) Pretrial Assessment Services must give significant weight to the risk
21 assessment score from a validated risk assessment tool, as defined in Penal
22 Code section 1320.7(k), but must also consider any supplemental information
23 that directly addresses whether the arrested person may be safely released,
24 and whether the arrested person is likely to appear in court as required.
25 Pretrial Assessment Services must include reasons for the decision to release
26 or to detain in the report, pursuant to Penal Code section 1320.9.
27

28 (3) Pretrial Assessment Services must consider the following additional factors
29 when determining whether to release or to detain pending arraignment:
30

31 (A) The nature and circumstances of the crime charged;
32

33 (B) The arrested person's past conduct, family and community ties,
34 criminal history, and record concerning appearance at court
35 proceedings;
36

37 (C) The nature and seriousness of the risk to the safety of the victim or any
38 other person or the community posed by the arrested person's release,
39 with particular consideration of the safety of victims of domestic
40 violence, if applicable;
41

1 (D) The impact of detention on the arrested person’s family responsibilities
2 and community ties, employment, and participation in education or
3 rehabilitation services; and

4
5 (E) The rights of a victim under article I, section 28 of the California
6 Constitution (Marsy’s Law).

7
8 (4) Pretrial Assessment Services may retain an arrested person in custody only if
9 there is a substantial likelihood that no condition or combination of
10 conditions of pretrial supervision will reasonably assure public safety or the
11 appearance of the person as required.

12
13 (c) **Setting of release conditions**

14
15 Each local rule must include the following requirements related to release
16 conditions:

17
18 (1) Pretrial Assessment Services must exercise independent judgment in the
19 setting of release conditions only after consideration of all information
20 obtained as a result of the investigation under Penal Code section 1320.9.

21
22 (2) Pretrial Assessment Services must tailor release conditions to the individual
23 arrested person, and not impose standardized conditions for types of offenses
24 or circumstances not relevant.

25
26 (3) Pretrial Assessment Services must only impose release conditions that are
27 reasonably related to assuring public safety and the arrested person’s return to
28 court in the particular case.

29
30 (4) Pretrial Assessment Services must not select release conditions that impose
31 an undue burden on the arrested person’s ability to comply.

32
33 (5) Pretrial Assessment Services must consider any release conditions that will
34 increase the likelihood of success of pretrial release. The local rule must
35 identify the following, nonexclusive list of conditions:

36
37 (A) Court appearance reminders;

38
39 (B) Transportation assistance for court appearances;

40
41 (C) Weekly or monthly telephone check-ins;

42
43 (D) Weekly or monthly in-person reporting;

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- (E) Field visits by a pretrial supervision officer;
- (F) Curfew;
- (G) Case management services, including referrals for services;
- (H) Compliance with prescribed medication and/or counseling;
- (I) Random drug testing;
- (J) Transdermal monitoring; and
- (K) Passive or active global positioning system (GPS) monitoring, without home detention.

(6) Pretrial Assessment Services must limit release conditions to the least restrictive necessary to reasonably assure the arrested person’s return to court and to reduce the risk of reoffense pending adjudication of the charged offense. Pretrial Assessment Services must not impose conditions that have rehabilitative objectives related to postconviction supervision.

(7) When selecting release conditions, Pretrial Assessment Services must use every reasonably available state, local, and community resource that will encourage successful prearrestment release and avoid unnecessary conditions of supervision.

(8) When selecting release conditions, Pretrial Assessment Services must consider the availability of local resources. However, Pretrial Assessment Services must not deny release based on the unavailability of any particular resource unless there is no other condition or combination of conditions that will reasonably protect the public or a victim, or reasonably assure the arrested person’s return to court in the current proceeding.

(d) Considerations for expanding the list of exclusions

(1) Penal Code section 1320.10(e) contains a comprehensive list of offenses and factors that make persons assessed as medium risk ineligible for release by Pretrial Assessment Services; a court is not required to expand this list. If a court chooses to add to the list of exclusionary offenses or factors, the court must not adopt a rule that includes exclusions that effectively exclude all or nearly all persons assessed as medium risk from prearrestment release.

- 1 (2) Any added exclusion must directly uphold the goals of public safety and
2 appearance in court as required.
3
4 (3) Factors weighed by the risk assessment tool must not be added as an
5 exclusion.
6
7 (4) An added exclusion must not solely be based on a status condition, such as
8 homelessness or mental illness, that would amount to an impermissible
9 categorical exclusion.
10
11 (5) Any added exclusion must be sufficiently specific and identifiable so that,
12 within the time authorized by statute, Pretrial Assessment Services is able to
13 determine whether the exclusion applies.
14
15 (6) When adding an exclusion, the court must consider the extent to which the
16 additional exclusion may increase disparity in detention rates of ethnic or
17 racial minorities, or other inappropriate demographic such as income level or
18 gender, within the local population.
19

20 **(e) Local rule development and annual review**
21

- 22 (1) In developing the local rule, the court must consult with Pretrial Assessment
23 Services and with other justice system partners. The court must consult with
24 other justice system resources, as appropriate, including the county
25 behavioral health agency and community-based organizations that provide
26 support for defendants and for victims. The court may also seek guidance on
27 evidence-based practices in pretrial release and detention from state and local
28 organizations with relevant expertise.
29
30 (2) Courts must undertake an annual review of their local rule to consider the
31 impact of the rule on public safety, on the due process rights of arrested
32 persons, and the preceding year's implementation of the rule. As part of the
33 review, the court must describe the consultation process used in developing
34 the rule, and explicitly examine whether the rule has had a disproportionate
35 impact based on race or ethnicity, gender, or other demographics that are
36 overrepresented in the criminal justice system. Courts must submit an annual
37 report to the Judicial Council that documents the data and findings generated
38 by the review.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Submit to JC (without circulating for comment)**

RUPRO Meeting: November 5 or 6, 2018

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Rules and Forms: Technical Changes

Committee or other entity submitting the proposal:

Judicial Council staff

Staff contact (name, phone and e-mail): Audrey Fancy, (415) 865-7706, audrey.fancy@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: October 24, 2017

Project description from annual agenda: Family and Juvenile Law Advisory Committee (item 32 of annual agenda)
Technical Changes to Rules and Forms Develop rule and form changes as necessary to correct technical errors meeting the criteria of rule 10.22(d)(2); "a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy...."

If requesting July 1 or out of cycle, explain:

Judicial Council staff recommends making technical changes to three Family/Juvenile law forms. Two of the three forms have approved revisions that go into effect on January 1, 2019. The third form (DV-800/JV-252) requires a technical change to ensure that there is no delay in receiving proof of relinquishment of firearms in domestic violence cases in family and juvenile court.

Additional Information: (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



JUDICIAL COUNCIL OF CALIFORNIA

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

REPORT TO THE JUDICIAL COUNCIL

For business meeting on November 29–30, 2018

Title	Agenda Item Type
Rules and Forms: Technical Changes	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms DV-800/JV-252, FL-150, and JV-690	January 1, 2019
Recommended by	Date of Report
Judicial Council staff Audrey Fancy, Principal Managing Attorney Center for Families, Children & the Courts	November 1, 2018
	Contact
	Audrey Fancy, 415-865-7706 audrey.fancy@jud.ca.gov

Executive Summary

Judicial Council staff and members of the branch have identified errors in Judicial Council family and juvenile law forms that are technical in nature. Judicial Council staff recommends making the necessary corrections to avoid confusion for court staff, judicial officers, and members of the public who use the forms.

Recommendation

Judicial Council staff recommends that the council, effective January 1, 2019:

1. Revise form DV-800/JV-252, *Proof of Firearms Turned In, Sold, or Stored*, item 5, to correct “Signature of law enforcement agent” to “Signature of licensed gun dealer” and the footer on page 1 to correct “§ 6389 et se.” to “§ 6389 et seq.”;
2. Revise form FL-150, *Income and Expense Declaration*, item 13a(1), to delete a duplicate line and correct and correct a typographical error in the caption; and

3. Revise form JV-690, *School Notification of Court Adjudication*, footer on pages 1 and 2, to include a reference to Education Code, section 48267 in addition to some other minor edits.

The revised forms are attached at pages 5–12.

Relevant Previous Council Action

The Judicial Council has acted on these forms previously but this proposal only involves minor corrections that are unrelated to prior council action. However, because the council’s action on two of the forms occurred at the September 21, 2018 council meeting and would have the same effective date as the corrections recommended in this report, the history is included here.

Form FL-150 was last revised by the council at its meeting on September 21, 2018, to implement the changes to the Internal Revenue Code relating to the tax treatment of spousal support orders. The council adopted the recommended changes, effective January 1, 2019.¹

Form JV-690 was last revised by the council at its meeting on September 21, 2018, to correct inaccuracies in the listed offenses and to conform the form to Welfare and Institutions Code section 827(b)(1). The council adopted the recommended changes, effective January 1, 2019.²

Analysis/Rationale

The proposed changes to these forms are technical in nature and necessary to correct typographical errors and include a reference that was unintentionally omitted.

Form DV-800/JV-252

The Judicial Council revised this form in 2014. The version that was published contained an error in item 5, incorrectly stating “Signature of law enforcement officer” instead of “Signature of licensed gun dealer.” In 2017, the form was again revised to make a technical change to the footer on page 1, and the error in the signature line of item 5 was not caught.

Form FL-150

This form incorrectly contains an extra line item for a party to indicate the amount of rent or mortgage that the party pays each month. A fillable line is provided for the party’s answer; however, a second line appears immediately below it. This extra line could cause confusion to the person trying to complete the form because it does not relate to any specific query in item 13. To avoid confusion, staff recommends that the Judicial Council approve a revised version of the form in which the extra line is removed. In addition, staff recommends that the Judicial Council correct a misspelling of the word “Petitioner” in the caption on page 4.

¹ The Judicial Council report is available at <https://jcc.legistar.com/LegislationDetail.aspx?ID=3602276&GUID=5D88574B-D7F4-4B82-8D17-4903594D2D0B>.

² The Judicial Council report is available at <https://jcc.legistar.com/LegislationDetail.aspx?ID=3602274&GUID=78627CB4-D630-4044-8547-5B3F76BD41EC>.

Form JV-690

Several minor edits are suggested for the form *School Notification of Court Adjudication* (JV-690). Due to an inadvertent error, the footer of the form does not include a reference to Education Code section 48267. The form was amended during the 2018 spring cycle to include the notice required under Education Code section 48267 if applicable. In addition, several minor edits are suggested, including the correct spelling of “principal” as opposed to “principle” on page two and adding “a” in front of “...court of competent jurisdiction” on page one.

Policy implications

The technical changes recommended to the forms in this report provide for continued effective and consistent procedures in family and juvenile court.

Form DV-800/JV-252

The error in the signature line in item 5 could cause confusion to licensed gun dealers who would need to complete this item on the form and could also lead to delays in providing the court with proof of relinquishment of firearms.

Form FL-150

The inadvertent additional line in the summary of the party’s monthly expenses could cause confusion to the party, the party’s attorney, or to the court by erroneously prompting the person completing the form to insert a dollar amount beneath the line for the amount of rent or mortgage paid each month. This could ultimately result in the court making an inaccurate calculation of a support or other order relating to a party’s financial obligations.

Form JV-690

There are no anticipated policy implications for the changes suggested for the JV-690 form, as the changes are minor typographical edits that do not address the substance of the form.

Comments

This proposal was not circulated for comment because it recommends a noncontroversial, technical revision, and is therefore within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

Form DV-800/JV-252

Staff considered delaying the recommendation but concluded that the form needs to be changed as soon as possible, given the policy implications noted above.

Forms FL-150 and JV-690

Since other changes to these forms have already been approved by the council to take effect on January 1, 2019, staff did not consider delaying the technical changes proposed here.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in some costs to the courts replace old versions of forms, both in paper and electronic systems.

Attachments and Links

1. Forms DV-800/JV-252, FL-150, and JV-690, at pages 5–12

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 Protected Person

Name: _____

2 Restrained Person

a. Your Name: _____

Your Lawyer (if you have one for this case): _____

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

3 To the Restrained Person:

If the court has ordered you to turn in, sell, or store your firearms, you may use this form to prove to the court that you have obeyed its orders. When you deliver your unloaded weapons, ask the law enforcement officer or the licensed gun dealer to complete item 4 or 5 and item 6. After the form is signed, file it with the court clerk. Keep a copy for yourself. For help, read form DV-800-INFO/JV-252-INFO, *How Do I Turn In, Sell, or Store My Firearms?*

4 To Law Enforcement

Fill out items 4 and 6 of this form. Keep a copy and give the original to the person who turned in the firearms.

The firearms listed in 6 were turned in on:

Date: _____ at: _____ a.m. p.m.

To: _____
Name and title of law enforcement agent

Name of law enforcement agency

Address

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Signature of law enforcement agent

5 To Licensed Gun Dealer

Fill out items 5 and 6 of this form. Keep a copy and give the original to the person who sold you the firearms or stored them with you.

The firearms listed in 6 were

sold to me transferred to me for storage on:

Date: _____ at: _____ a.m. p.m.

To: _____
Name of licensed gun dealer

License number Telephone

Address

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Signature of licensed gun dealer



6 Firearms

	<u>Make</u>	<u>Model</u>	<u>Serial Number</u>
a.	_____	_____	_____
b.	_____	_____	_____
c.	_____	_____	_____
d.	_____	_____	_____
e.	_____	_____	_____

Check here if you turned in, sold, or stored more firearms. Attach a sheet of paper and write "DV-800/JV-252, Item 6—Firearms Turned In, Sold, or Stored" for a title. Include make, model, and serial number of each firearm. You may use form MC-025, Attachment.

7 Do you have, own, possess, or control any other firearms besides the firearms listed in **6**? Yes No

If you answered yes, have you turned in, sold, or stored those other firearms? Yes No

If yes, check one of the boxes below:

a. I filed a *Proof of Firearms Turned In, Sold, or Stored* for those firearms with the court on (date):

b. I am filing the proof for those firearms along with this proof.


c. I have not yet filed the proof for the other firearms (explain why not):

Check here if there is not enough space below for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7c" for a title.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

 _____
Sign your name

PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	
INCOME AND EXPENSE DECLARATION	CASE NUMBER:

1. **Employment** (Give information on your current job or, if you're unemployed, your most recent job.)

Attach copies of your pay stubs for last two months (black out Social Security numbers).

- a. Employer:
- b. Employer's address:
- c. Employer's phone number:
- d. Occupation:
- e. Date job started:
- f. If unemployed, date job ended:
- g. I work about _____ hours per week.
- h. I get paid \$ _____ gross (before taxes) per month per week per hour.

(If you have more than one job, attach an 8 1/2-by-11-inch sheet of paper and list the same information as above for your other jobs. Write "Question 1—Other Jobs" at the top.)

2. **Age and education**

- a. My age is (specify): _____
- b. I have completed high school or the equivalent: Yes No If no, highest grade completed (specify): _____
- c. Number of years of college completed (specify): _____ Degree(s) obtained (specify): _____
- d. Number of years of graduate school completed (specify): _____ Degree(s) obtained (specify): _____
- e. I have: professional/occupational license(s) (specify): _____
 vocational training (specify): _____

3. **Tax information**

- a. I last filed taxes for tax year (specify year): _____
- b. My tax filing status is single head of household married, filing separately
 married, filing jointly with (specify name): _____
- c. I file state tax returns in California other (specify state): _____
- d. I claim the following number of exemptions (including myself) on my taxes (specify): _____

- 4. **Other party's income.** I estimate the gross monthly income (before taxes) of the other party in this case at (specify): \$ _____
 This estimate is based on (explain): _____

(If you need more space to answer any questions on this form, attach an 8 1/2-by-11-inch sheet of paper and write the question number before your answer.) Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) _____ (SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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Attach copies of your pay stubs for the last two months and proof of any other income. Take a copy of your latest federal tax return to the court hearing. (Black out your Social Security number on the pay stub and tax return.)

5. **Income** (For average monthly, add up all the income you received in each category in the last 12 months and divide the total by 12.)

	Last month	Average monthly
a. Salary or wages (gross, before taxes).....	\$	_____
b. Overtime (gross, before taxes).....	\$	_____
c. Commissions or bonuses.....	\$	_____
d. Public assistance (for example: TANF, SSI, GA/GR) <input type="checkbox"/> currently receiving	\$	_____
e. Spousal support <input type="checkbox"/> from this marriage <input type="checkbox"/> from a different marriage <input type="checkbox"/> federally taxable*	\$	_____
f. Partner support <input type="checkbox"/> from this domestic partnership <input type="checkbox"/> from a different domestic partnership	\$	_____
g. Pension/retirement fund payments.....	\$	_____
h. Social Security retirement (not SSI).....	\$	_____
i. Disability: <input type="checkbox"/> Social Security (not SSI) <input type="checkbox"/> State disability (SDI) <input type="checkbox"/> Private insurance	\$	_____
j. Unemployment compensation.....	\$	_____
k. Workers' compensation.....	\$	_____
l. Other (military allowances, royalty payments) (specify):	\$	_____

6. **Investment income** (Attach a schedule showing gross receipts less cash expenses for each piece of property.)

a. Dividends/interest.....	\$	_____
b. Rental property income.....	\$	_____
c. Trust income.....	\$	_____
d. Other (specify):	\$	_____

7. **Income from self-employment, after business expenses for all businesses**..... \$ _____

I am the owner/sole proprietor business partner other (specify): _____

Number of years in this business (specify): _____

Name of business (specify): _____

Type of business (specify): _____

Attach a profit and loss statement for the last two years or a Schedule C from your last federal tax return. Black out your Social Security number. If you have more than one business, provide the information above for each of your businesses.

8. **Additional income.** I received one-time money (lottery winnings, inheritance, etc.) in the last 12 months (specify source and amount): _____

9. **Change in income.** My financial situation has changed significantly over the last 12 months because (specify): _____

10. **Deductions**

	Last month
a. Required union dues.....	\$ _____
b. Required retirement payments (not Social Security, FICA, 401(k), or IRA).....	\$ _____
c. Medical, hospital, dental, and other health insurance premiums (total monthly amount).....	\$ _____
d. Child support that I pay for children from other relationships.....	\$ _____
e. Spousal support that I pay by court order from a different marriage <input type="checkbox"/> federally tax deductible*.....	\$ _____
f. Partner support that I pay by court order from a different domestic partnership.....	\$ _____
g. Necessary job-related expenses not reimbursed by my employer (attach explanation labeled "Question 10g").....	\$ _____

11. **Assets**

	Total
a. Cash and checking accounts, savings, credit union, money market, and other deposit accounts.....	\$ _____
b. Stocks, bonds, and other assets I could easily sell.....	\$ _____
c. All other property, <input type="checkbox"/> real and <input type="checkbox"/> personal (estimate fair market value minus the debts you owe).....	\$ _____

* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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12. The following people live with me:

Name	Age	How the person is related to me (ex: son)	That person's gross monthly income	Pays some of the household expenses?
a.				<input type="checkbox"/> Yes <input type="checkbox"/> No
b.				<input type="checkbox"/> Yes <input type="checkbox"/> No
c.				<input type="checkbox"/> Yes <input type="checkbox"/> No
d.				<input type="checkbox"/> Yes <input type="checkbox"/> No
e.				<input type="checkbox"/> Yes <input type="checkbox"/> No

13. Average monthly expenses Estimated expenses Actual expenses Proposed needs

<p>a. Home:</p> <p>(1) <input type="checkbox"/> Rent or <input type="checkbox"/> mortgage..... \$ _____</p> <p> If mortgage:</p> <p> (a) average principal: \$ _____</p> <p> (b) average interest: \$ _____</p> <p>(2) Real property taxes..... \$ _____</p> <p>(3) Homeowner's or renter's insurance (if not included above)..... \$ _____</p> <p>(4) Maintenance and repair..... \$ _____</p> <p>b. Health-care costs not paid by insurance..... \$ _____</p> <p>c. Child care..... \$ _____</p> <p>d. Groceries and household supplies..... \$ _____</p> <p>e. Eating out..... \$ _____</p> <p>f. Utilities (gas, electric, water, trash)..... \$ _____</p> <p>g. Telephone, cell phone, and e-mail..... \$ _____</p>	<p>h. Laundry and cleaning..... \$ _____</p> <p>i. Clothes..... \$ _____</p> <p>j. Education..... \$ _____</p> <p>k. Entertainment, gifts, and vacation..... \$ _____</p> <p>l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.)..... \$ _____</p> <p>m. Insurance (life, accident, etc.; do not include auto, home, or health insurance)..... \$ _____</p> <p>n. Savings and investments..... \$ _____</p> <p>o. Charitable contributions..... \$ _____</p> <p>p. Monthly payments listed in item 14 (itemize below in 14 and insert total here)..... \$ _____</p> <p>q. Other (specify): \$ _____</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>r. TOTAL EXPENSES (a-q) (do not add in the amounts in a(1)(a) and (b)) \$ _____</p> </div> <p>s. Amount of expenses paid by others \$ _____</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

14. Installment payments and debts not listed above

Paid to	For	Amount	Balance	Date of last payment
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

15. Attorney fees (This information is required if either party is requesting attorney fees):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$
- b. The source of this money was (specify):
- c. I still owe the following fees and costs to my attorney (specify total owed): \$
- d. My attorney's hourly rate is (specify):

I confirm this fee arrangement.

Date: _____

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF DECLARANT)
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PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
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CHILD SUPPORT INFORMATION
(NOTE: Fill out this page only if your case involves child support.)

16. Number of children

- a. I have *(specify number)*: _____ children under the age of 18 with the other parent in this case.
- b. The children spend _____ percent of their time with me and _____ percent of their time with the other parent.
(If you're not sure about percentage or it has not been agreed on, please describe your parenting schedule here.)

17. Children's health-care expenses

- a. I do I do not have health insurance available to me for the children through my job.
- b. Name of insurance company: _____
- c. Address of insurance company: _____

- d. The monthly cost for the **children's** health insurance is or would be *(specify)*: \$ _____
(Do not include the amount your employer pays.)

18. Additional expense for the children in this case

- | | Amount per month |
|--------------------------------------------------------------------------------|------------------|
| a. Childcare so I can work or get job training..... | \$ _____ |
| b. Children's health care not covered by insurance..... | \$ _____ |
| c. Travel expenses for visitation..... | \$ _____ |
| d. Children's educational or other special needs <i>(specify below)</i> :..... | \$ _____ |

19. Special hardships. I ask the court to consider the following special financial circumstances

(attach documentation of any item listed here, including court orders):

- | | Amount per month | For how many months? |
|----------------------------------------------------------------------------------------------------|------------------|----------------------|
| a. Extraordinary health expenses not included in 18b..... | \$ _____ | _____ |
| b. Major losses not covered by insurance <i>(examples: fire, theft, other insured loss)</i> | \$ _____ | _____ |
| c. (1) Expenses for my minor children who are from other relationships and are living with me..... | \$ _____ | _____ |
| (2) Names and ages of those children <i>(specify)</i> : _____ | | |
| (3) Child support I receive for those children..... \$ _____ | | |

The expenses listed in a, b, and c create an extreme financial hardship because *(explain)*: _____

20. Other information I want the court to know concerning support in my case *(specify)*:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

**SCHOOL NOTIFICATION OF COURT ADJUDICATION
(Welfare & Institutions Code Section 827(b) and Education Code Section 48267)**

TO SUPERINTENDENT:

SCHOOL DISTRICT:
MAILING ADDRESS:
CITY, STATE, ZIP CODE:

1. YOU ARE HEREBY NOTIFIED that (*child's name*): _____, born on: _____, is currently enrolled in your public school and that under:

- a. Education Code section 48267, the child is in a grade 7 thru 12 and is described by section 602, and a condition of probation requires that the minor attend a school program approved by the probation officer.
- b. Welfare & Institutions Code section 827(b), the child is in a grade kindergarten to grade 12 and was found by a court of competent jurisdiction to have committed a felony or misdemeanor involving:
 - (1) gambling (*code section, optional*):
 - (2) alcohol (*code section, optional*):
 - (3) drugs (*code section, optional*):
 - (4) graffiti (*code section, optional*):
 - (5) carrying of weapons (*code section, optional*):
 - (6) a sex offense listed in section 290 of the Penal Code (*code section, optional*):
 - (7) assault or battery (*code section, optional*):
 - (8) larceny (*code section, optional*):
 - (9) vandalism (*code section, optional*):
 - (10) distribution of tobacco products (*code section, optional*):

2. THE COURT-ORDERED DISPOSITION of the child's case is (*complete only for Welf. & Inst. Code, § 827(b)*):

- a. wardship probation
- b. Division of Juvenile Facilities (DJF aka DJJ) commitment
- c. nonwardship probation
- d. Other:

Date: _____
CLERK OF THE SUPERIOR COURT

For more information, contact the probation officer for the child.

WARNING: UNLAWFUL DISSEMINATION OF THIS INFORMATION IS A MISDEMEANOR

Any information received from this court is to be kept in a separate confidential file at the school of attendance. This record must be destroyed upon the child's graduating from high school, reaching the age of 18, or being released from court jurisdiction, whichever occurs first.

FURTHER INSTRUCTIONS

This form serves two purposes. It is primarily designed to provide the notice required by Welfare and Institutions Code section 827(b). The form can also be used to provide notice under Education Code section 48267. In addition, the form can be used to provide notice under both. If the form is providing notice for both section 827(b) and section 48267, the rules of section 827(b) on its dissemination, listed below, should be followed.

PURPOSE AND DISSEMINATION UNDER EDUCATION CODE SECTION 48267

Education Code section 48267 requires that if the child is in a grade from 7 to 12, the juvenile court must notify the superintendent of the child's school district when the child is described by section 602 and a condition of probation requires attendance in a school program approved by the probation officer.

If the form is being used to provide notice under Education Code section 48267, the juvenile court must provide the written notice to the superintendent of the school district of attendance within seven days of the disposition order, which must be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee must not disclose this information to any other person except as otherwise required by law.

PURPOSE AND DISSEMINATION UNDER WELFARE AND INSTITUTIONS CODE SECTION 827(b)

Welfare and Institutions Code section 827(b) requires that when a child is found to have committed a felony or misdemeanor for certain offenses, the court must send this form to inform the school of the underlying offense and the outcome of the case. The form is intended to encourage communication between the courts, law enforcement, and schools to ensure rehabilitation of the child and to promote public safety.

Juvenile court proceedings and information related to the case are confidential, and disclosure of this form is governed by the rules of confidentiality found in Welfare and Institutions Code section 827. Information related to a child's juvenile case is strictly confidential; the disclosure on this form is a limited exception. It is to be provided only to select individuals in the child's school district. An intentional violation of these rules is a misdemeanor.

Welfare and Institutions Code section 827(b) provides specific instructions for the school on how the form should be disseminated when it is sent by the court:

- The court will send this form to the district superintendent of the child's school district.
- The district superintendent must expeditiously transmit it to the principal at the school of attendance.
- The principal must then expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the child. In addition, the principal must disseminate the information to any teachers or administrators directly supervising or reporting on the behavior or progress of the child, if the principal believes they need the information to work with the child in an appropriate fashion or to promote school safety.

Any information received from the court by a teacher, counselor, or administrator must be received in confidence for the limited purpose of rehabilitating the child and protecting students and staff.

A teacher, counselor, or administrator who receives the information in the form must *not* disclose the information or disseminate the form unless it is communication with the child, his or her parents or guardians, law enforcement personnel, or the juvenile probation officer and is necessary to effectuate the child's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of Welfare and Institutions Code section 827(b) is a misdemeanor punishable by a fine not to exceed \$500.

If a child is removed from public school because of the court's finding described in this form, the superintendent must maintain the information in a confidential file and must defer transmitting the form received from the court until the child is returned to public school. If the child is returned to a school district other than the one from which the child came, the parole or probation officer having jurisdiction over the child must notify the superintendent of the last district of attendance, who must transmit the notice received from the court to the superintendent of the new district of attendance.

The form is required to be destroyed when the child graduates from high school, reaches the age of 18, or is released from court jurisdiction, whichever occurs first. At any time after the form is required to be destroyed, the child or his or her parent or guardian has the right to make a written request to the principal of the school to review the child's school records to verify that the form has been destroyed. After this requested review, the principal or his or her designee must respond in writing to the written request and either confirm or deny that the form has been destroyed, or explain why destruction has not yet occurred.