

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR20-15

Title Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer	Action Requested Review and submit comments by June 9, 2020
Proposed Rules, Forms, Standards, or Statutes Amend Cal. Rules of Court, rule 4.530	Proposed Effective Date January 1, 2021
Proposed by Criminal Law Advisory Committee Hon. J. Richard Couzens, Chair	Contact Sarah Fleischer-Ihn, 415-865-7702 Sarah.Fleischer-Ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee recommends amending California Rules of Court, rule 4.530, to state that only the receiving court may certify records from a case and to allow for electronic transmission of a certified copy of the court file. The amendments were suggested by a judicial administrator.

Background

Certifying records

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.

Modernizing the rule to account for electronic case management systems

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

The Proposal

This proposal would amend rule 4.530 by adding subdivisions stating that:

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee.
It is circulated for comment purposes only.*

- 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 amendments would clarify appropriate roles between transferring and receiving courts in certifying transferred case records and accommodate modernized court practices due to electronic case management systems.

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.

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?

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

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 4.530, at page 3
2. Link A: Pen. Code, § 1203.9,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.9.&lawCode=PEN

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

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

2
3 **(a)–(f) * * ***

4
5 **(g) Transfer**

6
7 (1)–(5)***

8
9 (6) A certified copy of the entire court file may be electronically transmitted if an
10 original paper court file does not exist. On receipt of an electronically
11 transmitted certified copy of the entire court file from the transferring court,
12 the receiving court must deem it an original file.

13
14 (7)–(8)***

15
16 (9) On transfer of the case, only the receiving court may certify copies from the
17 case file.

18
19 **(h) * * ***