

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR22-25

Title	Action Requested
Rules: Remove Reporting Requirement for Courts With Mandatory Electronic Filing	Review and submit comments by May 13, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 2.253	January 1, 2023
Proposed by	Contact
Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) proposes the Judicial Council amend rule 2.253 of the California Rules of Court to remove a requirement that a trial court with mandatory electronic filing by local rule submit reports about its electronic filing program to the Judicial Council. ITAC proposes removing the requirement because the reports are no longer needed.

Background

The Judicial Council adopted rule 2.253 of the California Rules of Court¹ effective July 1, 2013. Rule 2.253 authorizes trial courts to require parties, by local rule, to file electronically in civil cases subject to conditions enumerated in the rule. One condition is that courts “report semiannually to the Judicial Council on the operation and effectiveness of the court’s [mandatory electronic filing] program.”² The purpose of requiring courts to submit reports to the Judicial Council was to “provide a basis for evaluating different practices and procedures and for making future recommendations, including recommendations about what should be the effective time of electronic filing.”³ When the Judicial Council adopted the rule, it also adopted guidelines for

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

² Rule 2.253(b)(7).

³ Judicial Council of Cal., Advisory Com. Rep., *Electronic Filing and Service: Rules Allowing the Superior Courts to Mandate Electronic Filing and Service in Civil Cases* (June 21, 2013), p. 7, <https://www.courts.ca.gov/documents/jc-20130628-itemC.pdf>.

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 It is circulated for comment purposes only.

submitting the reports.⁴ Under the guidelines, courts were to submit reports to the Judicial Council Technology Committee at a specified email address.⁵

The Proposal

The proposal would eliminate the requirement that a trial court with mandatory electronic filing by local rule submit reports about its electronic filing program to the Judicial Council. ITAC determined the reports are no longer needed.

When the Judicial Council adopted the reporting requirement, the purpose was to “provide a basis for evaluating different practices and procedures and for making future recommendations, including recommendations about what should be the effective time of electronic filing.”⁶ The issue of “what should be the effective time of electronic filing” is now resolved. In 2017, the Judicial Council sponsored Assembly Bill 976, which, among other things, established that a document filed between 12:00 a.m. and 11:59:59 p.m. on a court day is deemed to have been filed that court day.⁷ The bill passed, and the updated effective time of electronic filing has been law since January 1, 2018.

In 2017, the Legislature passed an additional bill, Assembly Bill 103, to amend Code of Civil Procedure section 1010.6 to require the Judicial Council to submit four reports to the Legislature containing specific information about electronic filing and electronic service in the trial courts.⁸ Unlike rule 2.253, Code of Civil Procedures section 1010.6’s reporting requirement encompasses all electronic filing, not just mandatory electronic filing, as well as electronic service.⁹ To gather information beyond what is statutorily required, the Judicial Council can collect data as needed without semiannual reports from the courts about mandatory electronic filing. For example, ITAC can survey the courts to collect data to evaluate practices and procedures and make recommendations.

Alternatives Considered

The alternative to removing the reporting requirement would be to take no action. However, ITAC did not consider this a preferable alternative as the reporting requirement would necessitate courts to take on unnecessary workload.

⁴ *Id.* at p. 56.

⁵ *Ibid.*

⁶ *Id.* at p. 7.

⁷ See Link A.

⁸ See Link B. Three reports were due in 2018, 2019, and 2021. The remaining report is due in 2023.

⁹ Code Civ. Proc., § 1010.6(h)(5).

Fiscal and Operational Impacts

The proposal is not expected to result in any costs. Removing the requirement would ensure courts do not expend their resources to create the reports identified in the 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?

Attachments and Links

1. Cal. Rules of Court, rule 2.253, at page 4
2. Link A: Assembly Bill 976 (Stats. 2017, ch. 319),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB976.
3. Link B: Assembly Bill 103 (Stats. 2017, ch. 17),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB103.
4. Link C: Code of Civil Procedure section 1010.6,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1010.6&lawCode=CCP

Rule 2.253 of the California Rules of Court would be amended, effective January 1, 2023, to read:

1 **Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic**
2 **filing by court order**

3
4 **(a)** * * *

5
6 **(b) Mandatory electronic filing by local rule**

7
8 A court may require parties by local rule to electronically file documents in civil
9 actions directly with the court, or directly with the court and through one or more
10 approved electronic filing service providers, or through more than one approved
11 electronic filing service provider, subject to the conditions in Code of Civil
12 Procedure section 1010.6, the rules in this chapter, and the following conditions:

13
14 ~~(1)–(6)~~ * * *

15
16 ~~(7) — A court that adopts a mandatory electronic filing program under this~~
17 ~~subdivision must report semiannually to the Judicial Council on the operation~~
18 ~~and effectiveness of the court’s program.~~

19
20 **(c)** * * *