

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Criminal Law Advisory Committee
Hon. Steven Z. Perren, Chair
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DATE: August 2, 2004

SUBJECT: Criminal Procedure: Rule Governing Readiness Conferences (amend Cal. Rules of Court, rule 4.112) (Action Required)

Issue Statement

Rule 4.112 of the California Rules of Court requires courts to hold readiness conferences in criminal cases within 1 to 14 days prior to the date set for trial. However, some courts find readiness conferences to be counterproductive, as those courts do not settle enough cases to consider the conferences effective.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2005, amend rule 4.112 of the California Rules of Court to remove the mandatory readiness conference requirement in criminal cases and to specify that the rule only applies to felony cases.

The text of the proposed rule is attached at page 3.

Rationale for Recommendation

Rule 4.112 requires courts to hold a readiness conference within 1 to 14 days before the trial date in criminal cases. At the readiness conference, the court and counsel are to “discuss the case and determine whether the case can be disposed of without trial.” However, some courts do not find the readiness conferences productive because counsel are not prepared to seriously discuss disposition prior to the trial date, and a sufficient number of cases are not disposed of at the conferences. These courts report that the judge’s time could be used more effectively in other ways, such as conducting trials.

The proposed amendment would allow courts to hold such readiness conferences, but would not make it a requirement. Additionally, the rule would be limited in application to felony cases. Before trial court unification, the rule applied only in superior court, and was not modified at that point to restrict its application to felonies. However, the application of the rule to misdemeanor cases is problematic, because the rule requires that the defendant appear at the readiness conference, but under Penal Code section 977, defendants in misdemeanor cases may appear through counsel. Thus, to avoid conflicting with statute, it is proposed that the rule only apply in felony cases.

Alternative Actions Considered

The committee considered proposing deleting the rule in its entirety, but declined to do so because in many jurisdictions readiness conferences are still productive and thus a effective use of judicial time.

Comments From Interested Parties

Six comments were received, all of which agreed with the proposal.

A chart summarizing the comments is attached at pages 4–5.

Implementation Requirements and Costs

Implementation would not impose costs and would allow some courts to be more efficient.

Attachments

Rule 4.112 of the California Rules of Court is amended, effective January 1, 2005, to read:

1 **Rule 4.112. Readiness Conference**

2
3 (a) **[Date and appearances]** The court may hold a readiness conference ~~shall be~~
4 ~~held in felony cases~~ within 1 to 14 days before the date set for trial. At the
5 readiness conference:

6
7 (1) All trial counsel ~~shall~~ must appear and be prepared to discuss the case and
8 determine whether the case can be disposed of without trial.

9
10 (2) The prosecuting attorney ~~shall~~ must have authority to dispose of the case, ~~;~~
11 ~~and~~

12
13 (3) ~~T~~he defendant ~~shall~~ must be present in court.

14
15 (b) **[Motions]** * * *

SPR04-19
Readiness Conference Rule in Criminal Trials
(amend Cal. Rules of Court, rule 4.112)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Linda Finn Deputy Executive Officer Superior Court of California, County of Ventura Ventura	A	N	Agree with proposed changes.	No response necessary.
2.	Ms. Kim Hubbard President Orange County Bar Association Irvine	A	Y	Agree with proposed changes.	No response necessary.
3.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego San Diego	A	N	Agree with proposed changes. The following comments were received from our court managers: Agree provided the courts still have the discretion to conduct readiness conferences. They have been very productive in settling cases.	No response necessary.
4.	Hon. Dennis E. Murray Presiding Judge Superior Court of California, County of Tehama Red Bluff	A	N	Agree with proposed changes. I fully support this change. The current rule, which requires a conference within 1–14 days, is a great example of why “one shoe doesn’t fit all.” In some courts it discourages early resolution and leads to cases being resolved at the last minute. While all courts should have readiness conferences, the timing should be left to individual courts and, in some instances, individual trial judges. Lastly, I actually feel this rule is unnecessary. Trial courts have the power now, can write local rules and really don’t need this.	No response necessary.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
5.	Riverside Superior Court Staff Superior Court of California, County of Riverside Riverside	A	N	Agree with proposed changes.	No response necessary.
6.	Ms. Judi Waterman Managing Attorney Superior Court of California, County of Fresno Fresno	A	N	Agree with proposed changes.	No response necessary.