



Judicial Council of California · Administrative Office of the Courts

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

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 14, 2010

Title	Agenda Item Type
Judicial Administration: Membership of the Criminal Law Advisory Committee	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.42	January 1, 2011
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair	November 2, 2010
	Contact
	Arturo Castro, 415-865-7702 arturo.castro@jud.ca.gov

Executive Summary

The Criminal Law Advisory Committee recommends that the Judicial Council amend rule 10.42 of the California Rules of Court to add a probation officer membership category to the Criminal Law Advisory Committee.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2011, amend rule 10.42(b) of the California Rules of Court to add a probation officer category of membership to the Criminal Law Advisory Committee.

The text of the proposed amendments to the rule is attached at page 4.

Previous Council Action

The Judicial Council adopted rule 10.42 effective on January 1, 1999. The rule has remained substantively unchanged since adoption. There is no other relevant Judicial Council action to report.

Rationale for Recommendation

Rule 10.42(b) of the California Rules of Court prescribes the following membership categories for the Criminal Law Advisory Committee: appellate court justice, trial court judicial officer, judicial administrator, prosecutor, and criminal defense lawyer. The proposed amendment would add a new probation officer membership category.

The Criminal Law Advisory Committee is charged with making recommendations to the Judicial Council “for improving the administration of justice in criminal proceedings.” (Cal. Rules of Court, rule 10.42(a).) Committee recommendations frequently involve probation practice and procedure, yet the rule does not require a member with probation expertise. Although the current rule does not expressly prohibit the appointment of a probation officer member,¹ adding a probation officer membership category would ensure permanent representation of this vital criminal justice perspective on the committee by requiring at least one member with probation expertise at all times.

In addition, recently enacted legislation—Senate Bill 678 (Leno; Stats. 2009, ch. 608)—requires the Judicial Council to “consider the adoption of appropriate modifications to the Criminal Rules of Court, and of other judicial branch policies, procedures, and programs, affecting felony probation services that would support implementation of the evidence-based probation supervision practices described in this [bill].” A probation officer membership category would ensure that the committee has expertise in evidence-based probation supervision practices sufficient to enable the committee to make appropriate recommendations to the Judicial Council to fulfill this new legislative mandate.

Comments, Alternatives Considered, and Policy Implications

The proposed amendment was circulated for public comment from September 16, 2010, to October 16, 2010. A total of six comments were received. Of those, five agreed with the proposal and one agreed with the proposal if modified.² A chart providing all of the comments received and the committee responses is attached at pages 5–7.

All commentators—which include the Superior Courts of Los Angeles, San Diego, Sonoma, and Tulare Counties—support the proposed amendment. Notably, the California Judges Association

¹ Ms. Isabelle Voit, Chief Probation Officer of Solano County, was recently appointed to serve a three-year term on the committee, commencing November 1, 2010. Chief Voit is the first and only probation officer member on the committee.

² The requested modification, however, is technical in nature and unrelated to the proposed amendment.

commented that “[p]robation officers play an integral role in the criminal justice process” and would be “a valuable addition to the Criminal Law Advisory Committee.” The Chief Probation Officers of California, which represents the chief probation officers of all 58 counties in the state, noted the importance of adding a probation officer’s “close working relationship with the courts and knowledge of probation practices” to the committee, particularly in light of the legislation described above.

Implementation Requirements, Costs, and Operational Impacts

Expected costs and operational impacts would be limited to those associated with revising the California Rules of Court to reflect the proposed amendment. No increase in committee membership is required because, as noted above, the committee currently has a probation officer member.

Attachments

1. Cal. Rules of Court, rule 10.42, at page 4
2. Chart of comments, at pages 5–7

Rule 10.42 of the California Rules of Court is amended, effective January 1, 2011, to read:

1 **Rule 10.42 Criminal Law Advisory Committee**

2
3 **(a) *****

4
5 **(b) Membership**

6
7 The committee must include at least one member from each of the following
8 categories:

- 9
10 (1) Appellate court justice;
11
12 (2) Trial court judicial officer;
13
14 (3) Judicial administrator;
15
16 (4) Prosecutor; ~~and~~
17
18 (5) Criminal defense lawyer; and
19
20 (6) Probation officer.
21

SP10-04**Judicial Administration: Membership of the Criminal Law Advisory Committee** (amend California Rules of Court, rule 10.42)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
1.	Chief Probation Officers of California Isabelle J. Voit President	A	<p>On behalf of the Chief Probation Officers of California (CPOC), I am writing to express our support for the proposed amendment to the California Rules of Court, rule 10.42, to add a probation officer membership category to the Criminal Law Advisory Committee.</p> <p>CPOC represents the chiefs in all 58 counties in the State of California. Chief probation officers administer juvenile and adult programs and provide a full range of justice services. Probation's overall mission is to enhance public safety while reducing recidivism by providing supervision and intensive intervention programs. These efforts include probation providing criminal investigations and information to the courts to assist in making sentencing decisions, offering support services, collecting restitution, and providing other assistance to victims while also increasing the level of safety for them.</p> <p>Currently, the Criminal Law Advisory Committee's membership categories consist of appellate court justice, trial court judicial officer, judicial administrator, prosecutor, and criminal defense lawyer. Due to probation's role in the criminal justice system, close working relationship with the courts and knowledge of probation practices it is important to include a probation officer membership category. Doing so would aid the committee to more quickly develop effective solutions</p>	No response required.

SP10-04

Judicial Administration: Membership of the Criminal Law Advisory Committee (amend California Rules of Court, rule 10.42)

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			<p>regarding probation and other related issues. Additionally, it would save committee members time in the long run by reducing the need to revisit recommendations that would benefit from input from a probation officer.</p> <p>Furthermore, it is essential to have probation assist in making appropriate recommendations to the Judicial Council due to enactment of Senate Bill 678. This legislative mandate requires the Judicial Council to consider the adoption of appropriate modifications to the criminal rules of court, and of other judicial branch policies, procedures, and programs, affecting felony probation services that would support implementation of the evidence-based probation supervision practices described in the bill.</p> <p>For the reasons above, we support the proposed amendment to the California Rules of Court, to add a probation officer membership category to the Criminal Law Advisory Committee.</p>	
2.	California Judges Association Jordan Posamentier Legislative Counsel	A	[The California Judges Association] is pleased to support [the proposal]. A probation officer will serve as a valuable addition to the Criminal Law Advisory Committee. Probation officers play an integral role in the criminal justice process. Thus, when the Committee is called upon to make recommendations that might affect probation officers, it will be helpful to bring them to the table to discuss the practical	No response required.

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	Commentator	Position	Comment	Advisory Committee Response
			effects of a new rule or statute.	
3.	Superior Court of Los Angeles County	A	The criminal justice community is moving in the direction of more well founded, well thought out community based supervision of criminal defendants. The input of probation is critical.	No response required.
4.	Superior Court of San Diego County Michael M. Roddy Court Executive Officer	A	No additional comments.	No response required.
5.	Superior Court of Sonoma County Jose O. Guillen Court Executive Officer	AM	Since we are changing this rule, please consider changing the name “Judicial Administrator.” For consistency sake, change to “Trial Court Administrator.”	The committee declines additional amendments as unnecessary. The committee notes that several other advisory committee membership rules include a “judicial administrator” membership category. (See, e.g., Cal. Rules of Court, rules 10.41(b)(3), 10.43(b)(3), 10.54(b)(2), and 10.55(c)(5).)
6.	Superior Court of Tulare County Stephanie Cameron Court Operations Manager	A	No additional comments.	No response required.

