



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For meeting on: June 26, 2015

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Title	Agenda Item Type
Traffic: Payment and Forfeiture of Bail in Installments	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise form TR-300	June 26, 2015
Recommended by	Date of Report
Traffic Advisory Committee	June 15, 2015
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### Executive Summary

The Traffic Advisory Committee recommends revising form TR-300, *Agreement to Pay and Forfeit Bail in Installments*. On June 8, 2015, the Judicial Council adopted rule 4.105 of the California rules of Court to govern the imposition of bail in traffic infraction cases when a defendant appears as promised. In connection with adopting rule 4.105, the Judicial Council directed the Traffic Advisory Committee to consider proposals to revise Judicial Council traffic infraction forms related to bail as soon as possible to be consistent with the rule and to promote access to justice in traffic infraction cases.

### Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective June 26, 2015, revise form TR-300 to be consistent with rule 4.105 of the California Rules of Court and to promote access to justice in traffic infraction cases.

Revised form TR-300 is attached at pages 4–5.

## **Basis for Rationale for Recommendation**

Recent attention to state traffic infraction laws raised significant concerns about procedural fairness in related proceedings. In response, Chief Justice Tani G. Cantil-Sakauye charged the Judicial Council's Rules and Projects Committee (RUPRO) with developing a recommendation, on an emergency basis, to establish fair and effective statewide practices related to the deposit of bail in traffic infraction cases. Rule 4.105 was adopted as an urgency measure on June 8, 2015. It improves uniformity in traffic infraction bail procedures for pre-trial proceedings by expressly providing for traffic infraction defendants to appear for arraignment and trial without depositing bail, except in specific circumstances in which bail is required. Subdivision (d) of rule 4.105 requires that court forms related to bail for traffic infractions must inform defendants of the option to appear in court without the deposit of bail. To provide sufficient time for courts to carry out the rule, subdivision (d) expressly provides that courts must implement the notice provision for instructions and other materials as soon as reasonably possible, but no later than September 15, 2015.

When the council adopted rule 4.105, the council directed the Traffic Advisory Committee to expeditiously review Judicial Council traffic forms and recommend any revisions that are needed to make the forms consistent with rule 4.105. The Traffic Advisory Committee has subject-matter expertise on traffic infractions and related procedures. It is collaborating as appropriate with the Criminal Law Advisory Committee and other advisory committees, as well as with the work of the Chief Justice's Commission on the Future of California's Court System, to develop additional proposals to present to the Judicial Council through RUPRO.

The Traffic Advisory Committee has identified the need to revise the council's form for traffic infractions, TR-300, *Agreement to Pay and Forfeit Bail in Installments*. Form TR-300 is required when a court permits clerks to set up an installment payment plan for payment of bail when a defendant is not contesting the traffic infraction citation, but is unable to pay the full amount by the due date and wishes to pay in installments. The form includes an advisement and waiver of rights for defendants who wish to pay and forfeit bail in installments without appearing for arraignment. The advisement of rights is revised to expressly inform defendants of

1. the right to appear in court *without deposit of bail* for formal arraignment, plea, and sentencing; and
2. the right to request and have a court trial *without deposit of bail, unless the court orders bail*.

## **Previous Council Action**

Form TR-300 was adopted for statewide on February 22, 2008.

## **Comments, Alternatives Considered, and Policy Implications**

Rule 4.105 was adopted in response to concerns relating to bail for traffic infraction cases and to promote defendants' access to trial in such cases. Revision of form TR-300 to be consistent with

rule 4.105 is considered an urgent matter. The change to the form is fairly straightforward and unlikely to be controversial. For this reason, this proposal has been handled on an expedited basis without a comment period, to be implemented as soon as reasonably possible in accordance with subdivision (d) of rule 4.105. No alternatives were considered because the form was revised to be consistent with the notice requirements of rule 4.105(d).

### **Implementation Requirements, Costs, and Operational Impacts**

In adopting rule 4.105, the Judicial Council recognized that courts will require some time to implement the notice requirements in subdivision (d), including those on this form. To give courts sufficient opportunity to revise instructions, websites, and forms, the rule provides that subdivision (d) must be implemented as soon as reasonably possible but no later than September 15, 2015. Depending on whether a court permits clerks to set up payment of bail in installments for traffic infractions, a varying amount of costs and implementation efforts will be required to implement use of the revised form.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The adoption of revised form TR-300 will advance the Judicial Council goal of providing access and fairness in the courts. (See *Justice in Focus: The Strategic Plan for California's Judicial Branch*, Goal I, Access, Fairness, and Diversity.)

### **Attachment**

1. Form TR-300, at pages 4–5

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b>  <b>vs.</b>  DEFENDANT:	
<b>AGREEMENT TO PAY AND FORFEIT BAIL IN INSTALLMENTS</b> <b>(Vehicle Code, § 40510.5)</b>	

**TO BE FILLED OUT BY A COURT CLERK**

**Read carefully and, if you agree, sign and return the form to the clerk.**

CITATION NUMBER:
CASE NUMBER:

1. I am the defendant in this case and I have been charged with the following infraction violation of the Vehicle Code that does not require me to go into court:

a. § \_\_\_\_\_ b. § \_\_\_\_\_ c. § \_\_\_\_\_ d. § \_\_\_\_\_ e. § \_\_\_\_\_

- 2. My court appearance date has not expired and I am providing proof of correction for correctable violations.
- 3. I want to pay and forfeit bail for the violation(s) listed above, but I am not able to pay **the entire amount at the present time.** I ask the court to allow me to pay in installments. I understand that **the court** does not have to allow me to make installment payments.
- 4. I understand that by signing below I will be convicted today of each violation that has no proof of correction.

**5. TERMS OF THE AGREEMENT:**

The total bail (including penalties plus an administrative fee of \$\_\_\_\_ to pay in installments) is \$\_\_\_\_\_ I agree to pay the total amount as follows:

\$ \_\_\_\_\_ (10 percent or more) immediately and installments of at least \$ \_\_\_\_\_ due:  
 ( ) each month, starting (date): \_\_\_\_\_ and by the \_\_\_\_\_ day of each month until paid in full.  
 ( ) Other (explain): \_\_\_\_\_

I agree that: All payments must be made by the due date and there is no grace period.  
 If I do not make a payment on time, I may have to pay the rest of my unpaid bail immediately.  
 If I do not make my payments by each due date, I will see the clerk on the next court day after the due date of the missed payment.

I understand that if I do not make the payment by each due date, I may be charged with a misdemeanor under Vehicle Code section 40508, be charged up to \$300 under Penal Code section 1214.1 or have a warrant issued for my arrest, and the court may impound my driver's license and place a hold on the license. The court also may assign my case to a collection agency or the State Franchise Tax Board for collection.

I understand that my case will continue to be open until the date that my last installment is paid. On \_\_\_\_\_, if I pay as agreed, all amounts due will be paid. At that time, if proof of correction has been filed with the clerk as required, my bail forfeiture will be complete and no further proceedings will be held in this matter.

**By signing below I declare that I have read and understand my rights printed on the reverse side, which I now choose to give up, and that I have read, understand, and accept the terms and consequences stated above.**

(SIGNATURE OF DEFENDANT)	(DATE)	(TYPE OR PRINT NAME)
(DRIVER'S LICENSE/ID NUMBER)	(EXP. DATE)	(ADDRESS)
		(CITY, STATE, AND ZIP CODE)

CLERK OF THE SUPERIOR COURT

ACCEPTED (date): \_\_\_\_\_ BY: \_\_\_\_\_ (DEPUTY CLERK)

## ADVISEMENT OF RIGHTS

By choosing to pay and forfeit bail in installments and not go into court, you will be giving up these rights:

- To appear in court **without deposit of bail** for formal arraignment, plea, and sentencing;
- To **request and** have a court trial **without deposit of bail, unless the court orders bail,** and challenge the charges;
- To have a speedy court trial and have the charges dismissed if a speedy trial is requested but not provided;
- To be represented by an attorney at your expense;
- To subpoena or present witnesses and physical evidence using the power of the court at no cost to you and to testify on your own behalf;
- To confront and cross-examine all witnesses under oath testifying against you; and
- To remain silent and not testify.