

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

SP13-06

Title	Action Requested
Criminal Justice Realignment: Petitions for Revocation	Review and submit comments by July 26, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form CR-300	August 26, 2013
Proposed by	Contacts
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	Arturo Castro, 415-865-7702 arturo.castro@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes revisions to *Petition for Revocation* (CR-300)—an optional form used by supervising agencies to petition courts for revocation of parole and postrelease community supervision—that would add check boxes and a signature line for courts to make probable cause findings and other orders. This proposal was developed at the request of numerous criminal judges who desire to make relevant findings and orders on the same form as the petition.

Background

Criminal justice realignment legislation implemented broad changes to state parole procedures, including creating a new category of supervision called “postrelease community supervision” (PRCS) and transferring supervision revocation responsibilities from the California Department of Corrections and Rehabilitation (CDCR) to the courts. The legislation also requires the Judicial Council “to adopt forms and rules of court to establish uniform statewide procedures” to implement the new parole and PRCS schemes. (Pen. Code, §§ 3000.08(f), 3455(a).)

In response, the Judicial Council approved form CR-300 and adopted rule 4.540 of the California Rules of Court effective October 28, 2011. The rule prescribed various procedural requirements for PRCS revocations, including a requirement that courts note probable cause findings on form CR-300.

As originally approved by the Judicial Council, form CR-300 contained a section entitled “Court’s Probable Cause Finding and Orders,” which included check boxes and a signature line for courts to make the requisite probable cause findings and other orders. Later realignment

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

legislation applied longstanding probation revocation procedures under Penal Code section 1203.2 to all post-realignment revocations, which obviated the need for the separate PRCS procedures prescribed by rule 4.540. Therefore, at the recommendation of the Criminal Law Advisory Committee, effective November 1, 2012, the Judicial Council repealed rule 4.540 and approved revisions to form CR-300, which included deleting the “Court’s Probable Cause Finding and Orders” section from the form.

The Proposal

This proposal would add the previously deleted “Court’s Probable Cause Finding and Orders” section to the bottom of the form. As noted above, this section was designed for use by courts to note probable cause findings and make related orders, including dismissing the petition and preliminarily revoking supervision.

Because courts commonly review petitions to determine if the supervising agency has established probable cause for the violation, numerous criminal judges have requested that the “Court’s Probable Cause Finding and Orders” section be returned to the form so that all findings and orders can be memorialized on the same form as the petition.

This proposal also includes technical revisions to enhance formatting, delete a duplicative data field, and return to item 3 the following phrase, which was inadvertently deleted during a past form revision: “and sentenced to (*specify sentence*):.”

Alternatives Considered

The committee considered not returning the “Court’s Probable Cause Finding and Orders” section to the form because probable cause findings are not expressly required by Penal Code section 1203.2. Although not expressly required by statute, the committee decided to propose returning the section to the form to facilitate a practice common to many courts.

Implementation Requirements, Costs, and Operational Impacts

No significant implementation requirements, costs, or operational impacts for courts are expected.

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 reasonably achieve the stated purpose?
- Would this proposal have an impact on public's access to the courts? If a positive impact, please describe. If a negative impact, what changes might lessen the impact?

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

- Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?
- 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 an effective date immediately after Judicial Council approval of this proposal provide sufficient time for implementation?
- If this proposal would be cumbersome or difficult to implement in a court of your size, what changes would allow the proposal to be implemented more easily or simply in a court of your size?

Attachment

Petition for Revocation (CR-300)

SUPERVISING AGENCY <i>(Name and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____	FOR COURT USE ONLY <div style="background-color: yellow; padding: 10px; text-align: center;"> DRAFT ONLY <i>Not approved by Judicial Council</i> </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(name of supervised person):</i> <div style="text-align: right;">Date of birth: _____</div>	
PETITION FOR REVOCATION <input type="checkbox"/> PAROLE (Pen. Code, § 3000.08) <input type="checkbox"/> PRCS (Pen. Code, § 3455)	CDCR NUMBER, IF ANY: COURT/CASE NUMBER:

INSTRUCTIONS

- Before filing this form, petitioner should consult local rules and court staff to schedule the hearing in item 1.
- Petitioner must note whether the petition applies to a parole (beginning July 1, 2013) or postrelease community supervision matter by marking the appropriate check box above.

1. **HEARING INFORMATION:** A hearing on this petition for revocation has been scheduled as follows:

Date: _____	Time: _____	Dept.: _____
Location <i>(if different than court address above):</i> _____		

If an interpreter is needed, please specify the language: _____

2. **CUSTODY STATUS (Select one):** not in custody in custody *(specify location):* _____

Booking number *(if any):* _____

3. **CONVICTION AND SUPERVISION INFORMATION:**

The supervised person was originally convicted of the following offenses:

on *(date):* _____ in case numbers *(specify):* _____
 in county of *(specify):* _____ and sentenced to *(specify sentence):* _____

The supervised person was released on supervision on *(specify date):* _____

Name of current supervising agent or officer: _____

Supervision is scheduled to expire on (i.e., the controlling discharge date is) *(date):* _____

4. **SPECIFIC TERMS AND CONDITIONS:** Petitioner alleges that the supervised person has violated the following terms and conditions of supervision *(if more space is needed, please use Attachment to Judicial Council Form (MC-025)):*

5. **SUMMARY:** The supervising agency established probable cause for the alleged violation on *(date):* _____
The circumstances of the alleged violation are *(if more space is needed, please use Attachment to Judicial Council Form (MC-025)):*

6. **SPECIAL PAROLE STATUS** *(check this box only if the supervised person is subject to parole under Penal Code section 3000.1):*

The supervised person is on parole under Penal Code section 3000.1. If the court determines that the person has violated parole, the court is required to remand the person to the custody of CDCR for future parole consideration. (Pen. Code, § 3000.08(h).)

I declare under penalty of perjury and to the best of my information and belief that the foregoing is true and correct.

Date: _____ By _____

NAME AND TITLE OF PETITIONER
SIGNATURE OF PETITIONER

COURT'S PROBABLE CAUSE FINDING AND ORDERS

The court *(select one):*

- finds probable cause to support a revocation and preliminarily revokes supervision.
- does not find probable cause to support a revocation, vacates any hearing dates, and returns the supervised person to supervision on the same terms and conditions. The supervising agency must notify the prosecutor, supervised person, and supervised person's counsel (if any) of the dismissal.

Date: _____

For court use only