

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

W13-06

Title	Action Requested
Criminal Justice Realignment: Minimum Contents of Parole Revocation Reports	Review and submit comments by January 25, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 4.541	July 1, 2013
Proposed by	Contact
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	Arturo Castro, Senior Attorney AOC Criminal Justice Court Services Office 415-865-7702, arturo.castro@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes amending rule 4.541 to apply its minimum content requirements to reports filed with petitions to revoke parole as required by Penal Code section 3000.08(f).

Background

Criminal justice realignment legislation implemented broad changes to felony sentencing laws and parole procedures, including eliminating prison as a sentence option for certain defendants, authorizing courts to impose a period of “mandatory supervision” after release from county jail, and requiring courts to conduct revocation proceedings for a new category of supervision called “postrelease community supervision” (PRCS).

The legislation will also require courts to conduct parole revocation proceedings beginning July 1, 2013. Penal Code section 3000.08(f), in particular, requires the Judicial Council to adopt rules of court to implement the new parole revocation proceedings, including rules that prescribe the minimum contents of parole revocation reports.

The Proposal

Rule 4.541 currently prescribes the minimum contents of supervising agency reports filed with petitions to revoke probation, mandatory supervision, and PRCS. The rule is designed to promote uniform minimum contents among all applicable types of reports, while providing courts and supervising agencies with flexibility to decide the format and content of the reports.

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 These proposals are circulated for comment purposes only.

The Criminal Law Advisory Committee proposes amending rule 4.541 to apply its minimum content requirements to reports filed with petitions to revoke parole, as required by Penal Code section 3000.08(f). Specifically, the committee proposes amending:

- Subdivision (a) to establish that the rule applies to parole revocation proceedings;
- Subdivision (b)(1) to explain that the phrase “supervised person” as used in the rule includes persons subject to parole supervision;
- Subdivision (e) to require that parole revocation reports include information about intermediate sanctions as required by Penal Code section 3000.08(f); and
- The advisory committee comment on subdivision (e) to explain the specific statutory provisions that govern requirements for intermediate sanctions in the parole revocation context.

The committee proposes a July 1, 2013, effective date to coincide with the effective date of the new parole revocation procedures.

Alternatives Considered

The committee did not consider alternative proposals because the proposed rule amendments are required by statute.

Implementation Requirements, Costs, and Operational Impacts

No significant implementation requirements, costs, or operational impacts for courts are expected, but the committee has specifically invited comments on topics that could identify such requirements, costs, or impacts (see box below).

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in whether the proposal appropriately addresses the stated purpose.

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

- Would the proposal provide cost savings? If so, please quantify.
- What are the implementation requirements for courts? Examples include training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, and any necessary modifications of case management systems.
- Would a July 1, 2013, effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachment

Cal. Rules of Court, rule 4.541, at pages 4–6

Rule 4.541 of the California Rules of Court would be amended, effective July 1, 2013, to read:

1 **Rule 4.541. Minimum contents of supervising agency reports**

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3 **(a) Application**

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5 This rule applies to supervising agency petitions for revocation of formal probation,
6 parole, mandatory supervision under Penal Code section 1170(h)(5)(B), and
7 postrelease community supervision under Penal Code section 3455.
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9 **(b) Definitions**

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11 As used in this rule:

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13 (1) “Supervised person” means any person subject to formal probation, parole,
14 mandatory supervision under Penal Code section 1170(h)(5)(B), or
15 community supervision under Penal Code section 3451.
16

17 (2)–(4) ***
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19 **(c) Minimum contents**

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21 Except as provided in (d), a petition for revocation of supervision must include a
22 written report that contains at least the following information:
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24 (1) Information about the supervised person, including:

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26 (A) Personal identifying information, including name and date of birth;

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28 (B) Custody status and the date and circumstances of arrest;

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30 (C) Any pending cases and case numbers;

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32 (D) The history and background of the supervised person, including a
33 summary of the supervised person’s record of prior criminal conduct;
34 and

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36 (E) Any available information requested by the court regarding the
37 supervised person’s risk of recidivism, including any validated risk-
38 needs assessments;
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40 (2) All relevant terms and conditions of supervision and the circumstances of the
41 alleged violations, including a summary of any statement made by the
42 supervised person, and any victim information, including statements and type
43 and amount of loss;

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- (3) A summary of any previous violations and sanctions; and
- (4) Any recommended sanctions.

(d) Subsequent reports

If a written report was submitted as part of the original sentencing proceeding or with an earlier revocation petition, a subsequent report need only update the information required by (c). A subsequent report must include a copy of the original report if the original report is not contained in the court file.

(e) Parole and Postrelease Community Supervision Reports

In addition to the minimum contents described in (c), a report filed by the supervising agency in conjunction with a petition to revoke parole or postrelease community supervision under Penal Code section 3455 must include the reasons for that agency’s determination that intermediate sanctions without court intervention as authorized by Penal Code sections 3000.08(f) or 3454(b) are inappropriate responses to the alleged violations.

Advisory Committee Comment

Subdivision (c). This subdivision prescribes minimum contents for supervising agency reports. Courts may require additional contents in light of local customs and needs.

Subdivision (c)(1)(D). The history and background of the supervised person may include the supervised person’s social history, including family, education, employment, income, military, medical, psychological, and substance abuse information.

Subdivision (c)(1)(E). Penal Code section 3451(a) requires postrelease community supervision to be consistent with evidence-based practices, including supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among supervised persons. “Evidence-based practices” refers to “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.” (Pen. Code, § 3450(b)(9).)

Subdivision (e). Penal Code sections 3000.08(d) and 3454(b) ~~authorizes~~ authorize supervising agencies to impose appropriate responses to alleged violations of parole and postrelease community supervision under Penal Code section 3455 without court intervention, including referral to a reentry court under Penal Code section 3015 or flash incarceration in a county jail. Penal Code sections 3000.08(f) and 3455(a) ~~requires~~ require the supervising agency to determine that the intermediate sanctions authorized by sections 3000.08(d) and 3454(b) are inappropriate

- 1 responses to the alleged violation *before* filing a petition to revoke parole or postrelease
- 2 community supervision ~~under Penal Code section 3455.~~