



JUDICIAL COUNCIL OF CALIFORNIA

INFORMATION TECHNOLOGY
ADVISORY COMMITTEE

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RULES & POLICY ADVISORY SUBCOMMITTEE

MINUTES OF OPEN MEETING

January 22, 2019
12:10 pm – 1:20 pm
Teleconference

Advisory Body Members Present: Hon. Peter Siggins; Hon. Julie Culver; Hon. Louis Mauro; Hon. Samantha Jessner; Hon. Kimberly Menninger; Mr. Darrell Parker; Mr. Don Willenburg

Advisory Body Members Absent:

Others Present: Ms. Fati Farmanfarmaian; Ms. Andrea Jaramillo; Ms. Kristi Morioka; Mr. Richard Blalock

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 PM and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the November 6, 2018, Rules & Policy Subcommittee meeting. Mr. Darrel Parker did not attend meeting and abstained.

One written comment received pertaining to Rule 2.257 that will be addressed in Item 3.

DISCUSSION AND ACTION ITEMS (ITEMS 1-4)

Item 1

Trial Court Rules and Statutes Revisions: Proposed Amendments to Amend the Penal Code Section 1203.01 (Action Required)

Consider whether to recommend circulating proposed amendments to the Penal Code section 1203.01 of the California Rules of Court for public comment. The proposed amendments will provide an alternative to mailing certain statements and reports.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Ms. Jaramillo explained the current rule and the three options she drafted from discussion with the Data Exchange Working Group for the committee to review in the materials. Option 2 is the preferred choice to put in the proposal, but they will still solicit comments on the other options.

Option 2: All recipients can opt in. Persons convicted can request to receive the documents by mail as well.

(c)(1) With the consent of the recipient, the clerk of the court may deliver the documents, or the data contained in the documents, described in subdivisions (a) and (b) by electronic means rather than by mail.

(2) Notwithstanding paragraph (1), upon written request by a person convicted or by his or her counsel, the clerk shall also mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, copies of the documents described in subdivisions (a) and (b).

Some concern was raised about the email address used and if it will increase contact by inmates at courts. One option is to include this issue in the public comment to get feedback from courts directly. Additionally, bring issue back to the Data Exchange Working Group for feedback and insight.

Motion to recommend for public comment proposed amendments to Penal Code Section 1203.1 Option 2 and call out Options 1 & 3 in the public comment and to specifically seek the input of CEOs as the means of transferring data and potential for misuse.

Approved

Item 2

Trial Court Rules and Statutes Revisions: Proposed Amendments to Amend the Code of Civil Procedure Section 1010.6 (Action Required)

Consider whether to recommend circulating proposed amendments to the Code of Civil Procedure section 1010.6 of the California Rules of Court for public comment. The proposed amendments will allow courts to recover actual costs of permissive electronic filing and mandatory electronic filing by court order, just as they can with mandatory electronic filing by local rule, and clarify a provision for signatures made not under penalty of perjury to account for signatures of non-filers.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Ms. Jaramillo stated the cost recovery proposal is to clarify that courts would be able to recover no more than actual cost and could waive fees when appropriate. Hopefully, this change would encourage more courts to move to electronic filing.

Also, under section 1010.6 the proposed statutory change for when someone signs a document not under penalty of perjury. The proposal allows for clarity when filer and signer are different people. Additionally, a suggestion was made to remove “adopted by Judicial Council” as it is already stated previously in the rule.

Motion to recommend for public comment the proposed changes to Code of Civil Procedure Section 1010.6 and to remove staff proposed language from Section 1010.6(b) “adopted by Judicial Council”.

Approved.

Item 3

Trial Court Rules and Statutes Revisions: Proposed Amendments to the Electronic Filing and Service Rules (Action Required)

Consider whether to recommend circulating proposed amendments to the electronic filing and services rules for public comment. The proposed amendments to rule 2.251 will clarify how notice of electronic service is to be given and provide standardized language for consent. The proposed amendments to rule 2.257 will revise language on signatures of opposing parties, and make minor revisions consistent with Code of Civil Procedure section 1010.6.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Ms. Jaramillo spoke of rules 2.251 and 2.255 together as they are similar. The amendments are to let the other party know as well as the court when consent to electronic service is given by either the filer or EFSP.

Suggestion to consolidate language to change is rule 2.251(b)(1)(C) should be 2.251(b)(2) for ease of flow in the rule. Ms. Jaramillo will send updates before public comment.

Motion to approve proposals of Rules 2.251 and 2.255 for public comment with a numbering change and deletion of part (C) in rule 2.251.

Approved.

Rule 2.257 proposal isn't clear on who is responsible for the signature validation. DCSS is directly impacted, but this change is broader. Suggestion is to call this issue out in public comment to better identify suggested amendment. Also, include an advisory committee comment and include reference to government code.

Motion to recommend amendments to Rule 2.257 (b) as proposed; (b)1 will be revised to read "that if the data are changed, the electronic signature may be invalidated by the court; (c) delete extra "the"; (d) accept DCSS wording suggestions with final editing. These will be passed along to ITAC for consideration and approval prior to public comment.

Approved.

Item 4

Trial Court Rules and Statutes Revisions: Proposed Amendments to the Rules on Remote Access to Electronic Records (Action Required)

Consider whether to recommend circulating proposed amendments to the rules on remote access to electronic records for public comment. The proposed amendments to rule 2.540 will add more clarity and additional local government entities.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Due to a previous oversight to rule 2.540 of the California Rules of Court is to capture two agencies “county public administrator” and “county public conservator” missed in the previous update.

Motion to recommend as proposed for California Rules of Court Rule 2.540.

Approved.

The closed meeting minutes from November 6, 2018 were approved during the January 22, 2019 open meeting with Mr. Darrel Parker abstaining.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 1:20pm.

Approved by the subcommittee on July 2, 2019.