



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 24, 2012

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Title	Agenda Item Type
Criminal Justice Realignment: Abstract of Judgment Forms	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms CR-290, CR-290(A), and CR-290.1	July 1, 2012
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair	February 29, 2012
	Contact
	Arturo Castro, 415-865-7702 <a href="mailto:arturo.castro@jud.ca.gov">arturo.castro@jud.ca.gov</a>

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### Executive Summary

In response to recently enacted criminal justice realignment, the Judicial Council revised the abstract of judgment forms (forms CR-290, CR-290(A), and CR-290.1), effective January 2, 2012, to include information regarding sentences under Penal Code section 1170(h), including mandatory supervision and county jail commitments. Because the form revisions were adopted without a period of public review, the revised forms were circulated for public comment in winter 2012. Upon review of the forms after the public comment period, the Criminal Law Advisory Committee recommends additional revisions designed to enhance the sentence information on the forms.

### Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective July 1, 2012, approve the following revisions to *Felony Abstract of Judgment—Determinate* (form CR-290), *Felony Abstract of Judgment Attachment Page* (form CR-290(A)), and *Felony Abstract of Judgment—Determinate Single, Concurrent, or Full-Term Consecutive Count Form* (form CR-290.1):

1. Add new data fields to the chart in item 1 of each form for courts to specify whether a particular conviction qualifies as a serious or violent felony;
2. Delete obsolete data fields from the chart in item 1 on forms CR-290 and CR-290(A);
3. Add instructions to items 2 and 3 on each form for courts to note whether the punishment for an enhancement was stricken by the court;
4. Add check boxes to item 4 on forms CR-290 and CR-290.1 for courts to specify why the defendant is required to serve the sentence in state prison;
5. Add a check box and the word “probation” to item 4 on forms CR-290 and CR-290.1 to clarify whether the defendant must report to a probation or parole office upon release;
6. Replace the fixed amount of “\$50” with a blank space in item 9c on form CR-290 and item 5 on CR-290.1;
7. Replace the phrase “court security fee” with “court operations assessment” in item 9d on form CR-290 and item 5 on form CR-290.1; and
8. Add item 9f to form CR-290 and a check box to item 5 on form CR-290.1 for courts to note imposition of other fines, fees, or assessments.

The text of the proposed revisions to forms CR-290, CR-290(A), and CR-290.1 is attached at pages 5–8.

### **Previous Council Action**

The Judicial Council adopted forms CR-290 and CR-290.1 in 1977. Form CR-290(A) was adopted in 1981. The forms were revised, effective January 2, 2012, in response to recent criminal justice realignment legislation<sup>1</sup> that revised Penal Code section 1213 to require courts to prepare abstracts of judgment for new county jail commitments under Penal Code section 1170(h).

Because the legislation became effective October 1, 2011, the Judicial Council approved the form revisions without a period of public review to ensure that the forms were available for use by courts as soon as possible. The Judicial Council also directed the Rules and Projects Committee to circulate the revised forms for public comment *after* the effective date so that the Criminal Law Advisory Committee could consider further recommendations based on any comments received.

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<sup>1</sup> Assem. Bill 109 (Committee on Budget; Stats. 2011, ch. 15); Assem. Bill 117 (Committee on Budget; Stats. 2011, ch. 39); ABX1 17 (Blumenfield; Stats. 2011, ch.12).

## Rationale for Recommendation

Criminal justice realignment legislation enacted sweeping changes to long-standing sentencing laws, including replacing prison sentences with county jail commitments for certain eligible defendants, and authorizing courts to impose a period of mandatory supervision upon a defendant's release from county jail under newly added Penal Code section 1170(h)(5)(B).

As noted above, the forms were revised effective January 2, 2012, to address many of the changes to the sentencing laws, including the new county jail commitments and grants of mandatory supervision. Upon further review after the public comment period, the committee proposes several additional revisions designed to add instructions, provide more specific sentence information, delete references to obsolete sentence requirements, and enhance the information contained in the forms. The proposed revisions are explained more fully below.

## Comments, Alternatives Considered, and Policy Implications

The forms were circulated for public comment during the winter 2012 cycle. A total of 10 comments were received. Of those, 1 agreed, 6 agreed if modified, 2 did not state a position, and 1 disagreed. A chart with all comments received and committee responses is attached at pages 9–22.

### Notable comments and committee responses

The committee revised the forms in response to the following notable concerns:

- ***Enhanced sentence information.*** To address concerns expressed by the California Department of Corrections and Rehabilitation about the burdens involved in clarifying sentence ambiguities resulting from insufficient information on the forms, the committee revised the forms to require courts to specify the reason why the sentence must be served in state prison and whether each conviction qualifies as a serious or violent felony.
- ***Order to report to probation upon imposition of mandatory supervision.*** To address concerns that the forms only include an order requiring the defendant to report to the local *parole* office, the committee revised the forms to include an order requiring a defendant who has credit for time served to report to the local probation department upon imposition of a period of mandatory supervision under Penal Code section 1170(h)(5)(B).
- ***Updates.*** To update and enhance the sentence information on the forms, the committee on its own review (a) deleted obsolete references to violent and nonviolent consecutive terms from the chart in item 1 on forms CR-290 and CR-290(A),<sup>2</sup> and (b) added instructions to items 2 and 3 on each form for courts to specify whether the punishment for the enhancement was stricken by the court.

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<sup>2</sup> Penal Code section 1170.1 formally imposed limits on possible consecutive custody time for enhancements based on whether the crime was violent or nonviolent. The Legislature eliminated that distinction in 1997, rendering the reference on the forms obsolete.

### **Nonsubstantive changes**

The committee also revised the forms in response to several technical and nonsubstantive suggestions, including updating the name of an obsolete fine; adding an “other” data field for courts to note additional fines, fees, or assessments; and replacing a prefilled fine amount with a blank space. Other nonsubstantive suggestions were declined as unnecessary or for lack of space.

### **Notable alternatives considered**

The committee considered but declined to revise the forms in response to two concerns that the language of the items for courts to note the imposition of mandatory supervision may cause confusion. The committee declined the suggestion because the language on the form tracks the language of the underlying statute, Penal Code section 1170(h)(5)(B).

Another commentator suggested that courts should not be required to prepare the forms for cases in which the defendant is sentenced to county jail. However, the criminal justice realignment legislation included amendments to Penal Code section 1213 that require courts to prepare abstracts of judgments for all county jail commitments under Penal Code section 1170(h).

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

Expected costs are limited to court staff training and the production of new forms. No implementation requirements or operational impacts are expected.

### **Attachments**

1. Proposed revisions to *Felony Abstract of Judgment—Determinate* (form CR-290), *Felony Abstract of Judgment Attachment Page* (form CR-290(A)), and *Felony Abstract of Judgment—Determinate Single, Concurrent, or Full-Term Consecutive Count Form* (form CR-290.1), at pages 5–8
2. Chart of comments, at pages 9–22

**FELONY ABSTRACT OF JUDGMENT—DETERMINATE**  
**(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED)**

**CR-290**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF:			-A -B -C -D
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	DOB:		
AKA:			
CII NO.:			
BOOKING NO.:	<input type="checkbox"/> NOT PRESENT		
FELONY ABSTRACT OF JUDGMENT		<input type="checkbox"/> AMENDED ABSTRACT	
<input type="checkbox"/> PRISON COMMITMENT	<input type="checkbox"/> COUNTY JAIL COMMITMENT		
DATE OF HEARING	DEPT. NO.	JUDGE	
CLERK	REPORTER	PROBATION NO. OR PROBATION OFFICER	<input type="checkbox"/> IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE		COUNSEL FOR DEFENDANT	<input type="checkbox"/> APPOINTED

1. Defendant was convicted of the commission of the following felonies:

Additional counts are listed on attachment \_\_\_\_\_ (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YR.)	CONVICTED BY			TERM (L, M, U)	CONCURRENT	1/3 CONSECUTIVE	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (REFER TO item 5)	654 STAY	SERIOUS FELONY	VIOLENT FELONY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED	
						JURY	COURT	PLEA									YRS.	MOS.
					/ /													
					/ /													
					/ /													
					/ /													
					/ /													
					/ /													

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

COUNT	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

3. ENHANCEMENTS charged and found to be true for PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

4. Defendant sentenced  to county jail per 1170(h)(1) or (2)  
 to prison per 1170(a), 1170.1(a) or 1170(h)(3) due to  current or prior serious or violent felony  PC 290 or  PC 186.11 enhancement  
 per PC 667(b)-(i) or PC 1170.12 (strike prior)  
 per PC 1170(a)(3). Preconfinement credits equal or exceed time imposed.  Defendant ordered to report to local parole or probation office.

5. INCOMPLETE SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: \_\_\_\_\_

7.  Additional indeterminate term (see CR-292).

8. TOTAL TIME: \_\_\_\_\_

Attachments may be used but must be referred to in this document.

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:			
-A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

a. Restitution Fines:

Case A: \$ \_\_\_\_\_ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
\$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

Case B: \$ \_\_\_\_\_ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
\$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

Case C: \$ \_\_\_\_\_ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
\$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

Case D: \$ \_\_\_\_\_ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment); \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
\$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

b. Restitution per PC 1202.4(f):

Case A: \$ \_\_\_\_\_  Amount to be determined to  victim(s)\*  Restitution Fund

Case B: \$ \_\_\_\_\_  Amount to be determined to  victim(s)\*  Restitution Fund

Case C: \$ \_\_\_\_\_  Amount to be determined to  victim(s)\*  Restitution Fund

Case D: \$ \_\_\_\_\_  Amount to be determined to  victim(s)\*  Restitution Fund

\*Victim name(s), if known, and amount breakdown in item 13, below.  \*Victim name(s) in probation officer's report.

c. Fines:

Case A: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days  county jail  prison in lieu of fine  concurrent  consecutive  
 includes:  \$ \_\_\_\_\_ Lab Fee per HS 11372.5(a)  \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case B: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days  county jail  prison in lieu of fine  concurrent  consecutive  
 includes:  \$ \_\_\_\_\_ Lab Fee per HS 11372.5(a)  \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case C: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days  county jail  prison in lieu of fine  concurrent  consecutive  
 includes:  \$ \_\_\_\_\_ Lab Fee per HS 11372.5(a)  \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense

Case D: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days  county jail  prison in lieu of fine  concurrent  consecutive  
 includes:  \$ \_\_\_\_\_ Lab Fee per HS 11372.5(a)  \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense

d. Court Operations Assessment: \$ \_\_\_\_\_ per PC 1465.8. e. Conviction Assessment: \$ \_\_\_\_\_ per GC 70373. f. Other: \$ \_\_\_\_\_ per (specify): \_\_\_\_\_

10. TESTING:  Compliance with PC 296 verified  AIDS per PC 1202.1  other (specify): \_\_\_\_\_

11. REGISTRATION REQUIREMENT:  per (specify code section): \_\_\_\_\_

12.  MANDATORY SUPERVISION: Execution of a portion of the defendant's sentence is suspended and deemed a period of mandatory supervision under Penal Code section 1170(h)(5)(B) as follows (specify total sentence, portion suspended, and amount to be served forthwith):

Total: \_\_\_\_\_ Suspended: \_\_\_\_\_ Served forthwith: \_\_\_\_\_

13. Other orders (specify): \_\_\_\_\_

16. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT		
A			[ ]	2933	
			[ ]	2933.1	
			[ ]	4019	
B			[ ]	2933	
			[ ]	2933.1	
			[ ]	4019	
C			[ ]	2933	
			[ ]	2933.1	
			[ ]	4019	
D			[ ]	2933	
			[ ]	2933.1	
			[ ]	4019	
Date Sentence Pronounced			Time Served in State Institution		
			DMH	CDC	CRC
			[ ]	[ ]	[ ]

14. IMMEDIATE SENTENCING:  Probation to prepare and submit a post-sentence report to CDCR per 1203c.

Defendant's race/national origin: \_\_\_\_\_

15. EXECUTION OF SENTENCING IMPOSED

- a.  at initial sentencing hearing
- b.  at resentencing per decision on appeal
- c.  after revocation of probation
- d.  at resentencing per recall of commitment (PC 1170(d).)
- e.  other (specify): \_\_\_\_\_

17. The defendant is remanded to the custody of the sheriff  forthwith  after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to  the reception center designated by the director of the California Department of Corrections and Rehabilitation

county jail  other (specify): \_\_\_\_\_

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
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FELONY ABSTRACT OF JUDGMENT ATTACHMENT PAGE

CR-290(A)

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:

-A -B -C -D

1. Defendant was convicted of the commission of the following felonies: This attachment page number: \_\_\_\_\_

Table with columns: COUNT, CODE, SECTION NO., CRIME, YEAR CRIME COMMITTED, DATE OF CONVICTION (MO./DATE/YEAR), CONVICTED BY (JURY, COURT, PLEA), TERM (L, M, U), CONCURRENT, 1/3 CONSECUTIVE, CONSECUTIVE FULL TERM, INCOMPLETE SENTENCE (refer to item 5), 664 STAY, SERIOUS FELONY, VIOLENT FELONY, PRINCIPAL OR CONSECUTIVE TIME IMPOSED (YRS., MOS.). Includes a TOTAL row.

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

Table with columns: COUNT, ENHANCEMENT, TIME IMPOSED, "S," OR "PS", ENHANCEMENT, TIME IMPOSED, "S," OR "PS", ENHANCEMENT, TIME IMPOSED, "S," OR "PS", TOTAL. Includes a TOTAL row.

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

Table with columns: ENHANCEMENT, TIME IMPOSED, "S," OR "PS", ENHANCEMENT, TIME IMPOSED, "S," OR "PS", ENHANCEMENT, TIME IMPOSED, "S," OR "PS", TOTAL.

4. TOTAL TIME IMPOSED ON THIS ATTACHMENT PAGE: \_\_\_\_\_

**FELONY ABSTRACT OF JUDGMENT—DETERMINATE  
SINGLE, CONCURRENT, OR FULL-TERM CONSECUTIVE COUNT FORM**  
(Not to be used for multiple count convictions or for 1/3 consecutive sentences)

**CR-290.1**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF:		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:  AKA: CII NO.: BOOKING NO.: <input type="checkbox"/> NOT PRESENT	DOB:	CASE NUMBER
FELONY ABSTRACT OF JUDGMENT <input type="checkbox"/> PRISON COMMITMENT <input type="checkbox"/> COUNTY JAIL COMMITMENT <input type="checkbox"/> AMENDED ABSTRACT		
DATE OF HEARING	DEPT. NO.	JUDGE
CLERK	REPORTER	PROBATION NO. OR PROBATION OFFICER <input type="checkbox"/> IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE		COUNSEL FOR DEFENDANT <input type="checkbox"/> APPOINTED

1. Defendant was convicted of the commission of the following felony:

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY			TERM (L.M.U)	SERIOUS FELONY	VIOLENT FELONY	TIME IMPOSED	
						JURY	COURT	PLEA				YRS.	MOS.

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

COUNT	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

4. Defendant sentenced:  to county jail per PC 1170(h)(1) or (2)  per PC 667(b)-(i) or PC 1170.12 (strike prior)  to prison per PC 1170(a) or 1170(h)(3) due to  current or prior serious or violent felony  PC 290 or  PC 186.11 enhancement  PC 1170(a)(3). Pre-confinement credits equal or exceed time imposed.  Defendant ordered to report to local parole or probation office upon release.

5. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

Restitution Fine(s): \$\_\_\_\_\_ per PC1202.4 (b) forthwith per PC 2085.5 if prison commitment \$\_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked. \$\_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

Restitution per PC1202.4 (f):  \$\_\_\_\_\_  Amount to be determined to  \* victim(s)  Restitution Fund  
\*  Victim name(s), if known, and amount breakdown in item 8, below. \*  Victim name(s) in probation officer's report.

Fine(s): \$\_\_\_\_\_ per PC 1202.5. \$\_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days  county jail  prison in lieu of fine  concurrent  consecutive  
 Includes:  \$\_\_\_\_\_ Lab Fee per HS 11372.5(a)  \$\_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense.

Court Operations Assess.: \$\_\_\_\_\_ per PC 1465.8.  Conviction Assess.: \_\_\_\_\_ per GC 70373.  Other: \$\_\_\_\_\_ per (specify): \_\_\_\_\_

6. TESTING: a.  Compliance with PC 296 verified b.  AIDS per PC 1202.1 c.  other (specify): \_\_\_\_\_

7. IMMEDIATE SENTENCING:  Probation to prepare and submit a post sentence report to CDCR per PC 1203c. Def't's Race / National Origin \_\_\_\_\_

8. Other orders (specify): \_\_\_\_\_

9. TOTAL TIME IMPOSED: \_\_\_\_\_

10.  MANDATORY SUPERVISION: Execution of a portion of the total jail time imposed in item 9 is suspended and deemed a period of mandatory supervision under PC 1170(h)(5)(B) as follows: Suspended portion: \_\_\_\_\_ Served forthwith: \_\_\_\_\_

11.  This sentence is to run concurrent with (specify): \_\_\_\_\_ 12. Registration Required:  per (specify code section): \_\_\_\_\_

13. Execution of sentence imposed: a.  at initial sentencing hearing. b.  at resentencing per decision on appeal. c.  after revocation of probation. d.  at resentencing per recall of commitment. (PC 1170(d).) e.  other (specify): \_\_\_\_\_

DATE SENTENCE PRONOUNCED	CREDIT FOR TIME SPENT IN CUSTODY TOTAL DAYS:	ACTUAL LOCAL TIME	LOCAL CONDUCT CREDITS	TIME SERVED IN STATE INSTITUTION		
				2933	DMH	CDCR
			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019	[ ]	[ ]	[ ]

15. The defendant is remanded to the custody of the sheriff  forthwith  after 48 hours excluding Saturdays, Sundays, and holidays. To be delivered to  the reception center designated by the director of the California Department of Corrections and Rehabilitation.  county jail  Other (specify): \_\_\_\_\_

**CLERK OF THE COURT:** I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE	DATE
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This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document. Page 1 of 1



**W12-05**

**Criminal Justice Realignment: Abstract of Judgment Forms** (Proposed Rules, Forms, Standards, or Statutes, Revise forms CR-290, CR-290-A, and CR-290.1)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
1.	California Department of Corrections and Rehabilitation Mr. Benjamin T. Rice General Counsel	AM	<p>On behalf of the California Department of Corrections and Rehabilitation (CDCR), I am submitting the following comments on the revised abstract of judgment (AOJ) forms (CR-290, CR-290A, and CR-290.1). CDCR appreciates the opportunity to provide comments on these AOJ forms. CDCR largely agrees with the proposed changes and suggests some additional changes as described below.</p> <p>The recent criminal justice realignment legislation ... is the cornerstone of California's solution for reducing the number of inmates in the state's 33 prisons to 137.5 percent of design capacity by June 27, 2013, as ordered by the Three-Judge Court and affirmed by the U.S. Supreme Court. The law, effective October 1, 2011, mandates that individuals sentenced to non-serious, non-violent or non-sex offenses will serve their sentences in county jails instead of state prison. However, all felons convicted of current or prior serious or violent offenses, and sex offenses will go to state prison. In addition, there are nearly 60 offenses that are not defined in the Penal Code as serious or violent offenses for which the sentences must be served in state prison rather than in local custody.</p> <p>After commitment to state prison, most offenders are bused to one of CDCR's reception center prisons. Upon receipt of each offender, CDCR reviews the AOJ, minute order, and available criminal history information to</p>	To enhance the sentence information on the forms and reduce burdens associated with clarifying sentence ambiguities, the committee has added (a) check boxes to item 4 on forms CR-290 and CR-290.1 for courts to specify why the defendant must serve the sentence in state prison, and (b) new data fields to the chart in item 1 on forms CR-290 and CR-290.1 for courts to specify whether a particular conviction qualifies as a serious or violent felony.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W12-05**

**Criminal Justice Realignment: Abstract of Judgment Forms** (Proposed Rules, Forms, Standards, or Statutes, Revise forms CR-290, CR-290-A, and CR-290.1)

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

	Commentator	Position	Comment	Advisory Committee Response
			<p>confirm that the offender has a current or past offense that necessitates service of the current sentence in state prison. This decision depends on whether or not the offender has a current or past offense that meets the criteria of a serious offense under Penal Code section 1192.7, subdivision (c) or the criteria of a violent offense under Penal Code section 667.5, subdivision (c), whether the offender's current offense is one of the dozens of non-violent, non-serious offenses that must be served in state prison, or whether the offender has a current or past offense giving rise to an obligation to register as a sex offender. When counties receive offenders for service of felony sentences in county jails, they too must determine that the offender is, or is not, properly in local custody.</p> <p>While this task is straightforward for many offenders, it is more difficult for others.<sup>1</sup> When commitment documents are ambiguous in this regard, CDCR will write the court and ask for clarification. The letter will give the court the opportunity to clarify its order to specify the basis for the prison commitment. Because the courts are so busy, sometimes CDCR does not receive a timely response, if any at all. Offenders who are not properly in CDCR custody are subject to additional legal processes, as well as transportation to and admission processing at the proper county jail.</p> <p>The current AOJ forms [as recently modified]</p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W12-05**

**Criminal Justice Realignment: Abstract of Judgment Forms** (Proposed Rules, Forms, Standards, or Statutes, Revise forms CR-290, CR-290-A, and CR-290.1)

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

Commentator	Position	Comment	Advisory Committee Response
		<p>state on page 1:</p> <p>“4. Defendant sentenced:  <input type="checkbox"/> to prison commitment per PC 1170(a), 1170(h)(3), or 1170.1(a)  <input type="checkbox"/> to county jail per PC 1170(h)(1) or (2)”</p> <p>If the first box is checked, the AOJ reflects a prison commitment that was made for any of a number of reasons—the offender’s commitment offense lists a prison sentence as the punishment (Pen. Code, § 1170(a)), the offender’s current offense is serious or violent or the offender has a prior conviction for a serious or violent offense or the offender has an obligation to register as a sex offender (Pen. Code, § 1170(h)(3)), or a consecutive term of imprisonment has been imposed including a principal or subordinate offense that otherwise would be county-eligible (Pen. Code, § 1170.1(a).) While this recent modification is helpful in that it indicates whether the court has ordered a prison commitment or a commitment to county custody, it does not contain the detail necessary to avoid the letter-writing and court hearing processes, and to avoid the resulting additional workload for the courts, counties, and CDCR. In order to avoid this additional workload, the AOJ could be modified to provide slightly more information, for example:</p> <p>“4. Defendant sentenced:  <input type="checkbox"/> to prison commitment per <input type="checkbox"/>PC 1170(a),</p>	

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**W12-05**

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			<p><input type="checkbox"/> PC 1170(h)(3) – current serious or violent crime, Count____, prior serious violent crime____(year and code section), sex offender registration obligation____, PC 186.11 enhancement____</p> <p><input type="checkbox"/> to county jail per PC 1170(h)(1) or (2)”</p> <p>This detailed information is readily available during the trial courts’ proceedings, and it seems logical to have it written on the AOJ form during those proceedings rather than waiting and creating additional workload for the courts, counties, and CDCR.</p> <p>Again CDCR appreciates the opportunity to provide comments...</p> <p><sup>1</sup> An example is an AOJ that lists a commitment offense of “PC 245(a)(1).” Penal Code section 245, subdivision (a)(1) provides in part, “Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.” (Pen. Code, § 245, subd. (a)(1).) This offense can be a serious felony if either “the defendant personally inflicts great bodily injury on any person, other than an accomplice...” or if “the defendant</p>	<p>o</p>

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			<p>personally used a dangerous or deadly weapon.” (Pen. Code, § 1192.7. subds. (c)(8) and (23).)                      This offense is not serious, however, if the violation is based on an assault “likely to produce great bodily injury” or if the offense is aiding and abetting another who commits an assault using a dangerous weapon. (People v. Shirley (1993) 18 Cal.App.4th 40, 44–45). The commitment documents are sometimes ambiguous when they do not provide information from which a determination can be made as to whether the current offense of [Penal Code section] 245(a)(1) is serious or not serious.</p>	
2.	<p>Ms. Patty Godfrey                      Supervising Courtroom Clerk                      Stanislaus County Superior Court</p>	NI	<p>If courts are now going to be required to complete an abstract of judgment ... for felony convictions being sentenced pursuant to [Penal Code section] 1170(h)(5), where will this abstract of judgment be sent?</p> <p>Presently, the abstract of judgment is only prepared for those matters being sentenced to serve time in a “state prison” facility. The form is prepared and sent as the cover sheet to the “prison transportation packet” (when a defendant is sentenced to serve time in a state prison facility). This packet is then delivered to the [California Department of Corrections and Rehabilitation] with the defendant.</p> <p>According to [section] 1170(h)(5), the defendant would be serving his [or] her sentence</p>	<p>The Legislature amended Penal Code section 1213 to require courts to provide custody officials with abstracts of judgments in all felony cases resulting in county jail commitments under Penal Code section 1170(h). Specifically, section 1213 requires courts to provide abstracts to “the officer whose duty it is to execute the ... judgment... .” For county jail commitments, the officer whose duty it is to execute the judgment is presumably the sheriff.</p>

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			<p>“locally,” which agency therefore, would be receiving this document IF we are indeed mandated to prepare? Please advise.</p>	
3.	<p>Ms. Beverly Harris Court Operations Supervisor, East County Division Superior Court of San Diego County</p>	NI	<p>The courtroom clerks that work in the East County Branch of the San Diego Superior Court have made several suggestions to the new abstract of judgment forms...</p> <p>SUGGESTIONS:</p> <ul style="list-style-type: none"> <li>• CR-290 section 9(c) – Instead of the \$50.00 amount being prefilled, could there be a blank \$_____ field.</li> <li>• CR-290 section 9(d) – [The] “court security fee” should be changed to “court operations assessment.”</li> <li>• CR-290: Could a section (f) be added for the [Government Code section] 29550.1 criminal justice administration [f]ee?</li> </ul>	<ul style="list-style-type: none"> <li>• The committee has replaced the pre-filled amount of \$50 with a blank field as suggested. Although the amount of the fee under Health and Safety Code section 11372.5(a) is currently fixed at \$50, the amount is subject to change. Section 11372.5(a) also requires the court to impose a fine not to exceed \$50 upon conviction of specified offenses for which a fine is not otherwise authorized by law.</li> <li>• The committee agrees because the Legislature recently revised Penal Code section 1465.8 to replace the “court security fee” with a “court operations assessment.”</li> <li>• To enable courts to note any additional mandatory fines or fees, the committee agrees to add an “other” data field to item 9f on form CR-290 and item 5 on form</li> </ul>

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			<ul style="list-style-type: none"> <li>• The field on all forms for the crime description is too small. More space is needed.</li>   <li>• Requesting WORD format instead of PDF.</li>   <li>• DNA testing is being ordered by the court again and not automatically done by the Sheriff. That entry should be added back to the form.</li>   <li>• There are numerous custody credit types that are not available on the form, but they may have been left off intentionally, knowing that we would</li> </ul>	<p>CR-290.1.</p> <ul style="list-style-type: none"> <li>• Additional space on the forms is unavailable to amend the form as suggested.</li>   <li>• Judicial Council forms are not developed in Word format, only as “fillable” PDF forms. The committee notes, however, that the PDF format allows courts to save information in the form headers for future use as a template using Adobe Reader software, which can be downloaded for free.</li>   <li>• The committee declines the suggestion. The suggested form revision is premature because the constitutionality of DNA sampling of felon arrestees is still under review. (See, e.g., <i>People v. Buza</i> (2011) 132 Cal.Rptr.3d 616, petition for review granted by the Supreme Court.)</li>   <li>• All relevant custody credit statutes are included on the form.</li> </ul>

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			<p>see less and less of them in the future.</p> <p>Thank you for considering these suggestions.</p>	
4.	Orange County Bar Association Ms. Dimetria Jackson President	AM	<p>Form CR-290 (item 12) and form CR-290.1 (item 10) contain language which has practical meaning other than that intended by Penal Code section 1170(h)(5)(B) and therefore is problematic as proposed.</p> <p>While Penal Code section 1170(h)(5)(B) does use the language of “suspending execution of a concluding portion” of a split sentence, it clarifies this sentencing model in subsequent sentences, distinguishing it from the pre-realignment and currently existing sentencing option of the “ESS” sentence (execution of sentence suspended). Unfortunately, the proposed language in the abstract lends itself to confusion between the two very different types of sentences because it is written as if the intended sentence were an ESS sentence.</p> <p>In an ESS sentence, a probationary sentence is imposed, a further custodial sentence is also imposed, but “stayed.” If the defendant violates the terms of ... probation, the stayed sentence is imposed. Under Penal Code 1170(h)(5)(B), there is no “stayed” sentence. The defendant continues to serve his or her sentence upon release, earning day for day</p>	The mandatory supervision items on the forms track the language of the underlying statute, Penal Code section 1170(h)(5)(B).

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			<p>credit while out of custody but still under [mandatory] supervision.</p> <p>An example of why this is a critical distinction is reflected in these two sentences: Defendant A is sentenced to 8 months in custody and 8 months stayed pending successful completion of supervised release (an ESS sentence as to the final 8 months). Defendant B is sentenced to 16 months in custody, 8 to be served in jail and 8 to be served on [mandatory] supervision [under Penal Code section 1170(h)(5)(B)]. Both A and B violate after 7 months of probation supervision. Defendant A can be sentenced to the ESS of 8 months. Defendant B can only be sentenced to 1 month as he [or] she has earned credit for 7 months while out on probation supervision.</p> <p>To be clear, and to avoid legal confusion, more accurate and precise language would be: “MANDATORY SUPERVISION: The sentence is divided as follows: ___ years and ___ months incarceration in county jail, and ___ years and ___ months of mandatory supervision.”</p>	
5.	Orange County Public Defender Mr. Mark S. Brown Assistant Public Defender	AM	Although section 1170(h)(5)(B) of the Penal Code uses the phrase “suspend execution” in relation to the time spent on mandatory supervision, the section read as a whole makes it clear that the provision does not truly contemplate a “suspended” sentence. That	The mandatory supervision items on the forms track the language of the underlying statute, Penal Code section 1170(h)(5)(B).

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			<p>paragraph goes on to provide that the individual serving a “suspended” sentence receives day for day credit while released on mandatory supervision, thereby actually continuing to serve their term. Hence, it is not suspended at all. This distinction is critical.</p> <p>For example, John is sentenced to 16 months in county jail, but the execution of that sentence is suspended pending successful completion of probation; a term of John’s probation is that he serve 8 months in county jail. Jane is sentenced to 16 months in custody as follows: 8 months to be served forthwith in county jail and 8 months to be served on mandatory supervision. Assume that both John and Jane violate probation after 7 months. John can be sentenced to 16 months for the probation violation (with 8 months of credit) because that is the amount of time that was suspended. Jane, on the other hand, can only be sentenced to 1 month, because she has already served 7 months on mandatory supervision (for which Jane received day-for-day credit). A client who receives a “split sentence” is to be treated like Jane, not John.</p> <p>To avoid any confusion, we recommend that the word “Suspended:” be replaced with the words “Mandatory Supervision:” on forms CR-290 (item 12) and CR-290.1 (item 10).</p>	

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6.	Superior Court of Riverside County Mr. Michael J. Capelli General Counsel	N	<p>Our court does not agree with the proposed revisions to the forms so as to require their mandated use pursuant to realignment.</p> <p>Rationale: As a practical matter, each county is determining the extent and degree of participation of all stakeholders in the realignment process. Accordingly, with respect to the Court and Sheriff, the Court suggests each county be permitted to develop procedures and forms that are most likely to effect the intent of the legislation without causing any unnecessary confusion among stakeholders. The Court acknowledges that legislative and/or rule amendments may be required to change policies to more accurately reflect the manner in which Courts actually conduct business with stakeholders. For example, in Riverside:</p> <p>(1) Our court has historically generated Jail Minute Orders (JMOs) in connection with misdemeanor convictions resulting in county jail commitments. The Riverside Sheriff's Office prefers to continue to receive the JMOs in place of the mandated abstract for felony convictions. The JMOs are clear, concise, easy to read, minimize error, and expedite the Sheriff's processing of sentencing orders.</p> <p>(2) The JMOs allow for continued consistency and ease in the flow of</p>	As noted above in item 2, recent criminal justice realignment legislation revised Penal Code section 1213 to require courts to prepare abstracts of judgments for all county jail commitments under Penal Code section 1170(h). In addition, abstract of judgment forms must be prescribed by the Judicial Council. (Pen. Code, § 1213.5.)

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			<p>paperwork between the Court and Sheriff.</p> <p>(3) Requiring use of the mandated abstract forms will require additional Genesis programming, at a substantial cost to the Court. Moreover, in order to effect the programming changes, the Court will require additional time for implementation.</p> <p>(4) The mandated use of the abstract forms will require increased Court staff time. Therefore, additional costs, not presently being paid, will be incurred by the Court on a “permanent” basis.</p>	
7.	Superior Court of San Diego County Mr. Michael M. Roddy Court Executive Officer	A	No comments provided.	No additional response required.
8.	Superior Court of Sutter County Ms. Melinda Kovanda Supervisor	AM	<ul style="list-style-type: none"> <li>As to item ... 4 on forms CR-290 [and] CR-290.1: [I]f it’s a paper commitment on a county jail sentence, defendant will not be reporting to [a] <u>parole</u> officer, but will be reporting to [a] probation officer, but only if the sentence was split. If the county jail sentence is a straight sentence, the defendant will not report to probation at all. So I think they need a check box like we put on our 1170 abstracts.</li> </ul>	<ul style="list-style-type: none"> <li>To clarify whether the defendant is required to report to a probation or parole office upon release, the committee added a check box and the word “probation” to item 4 on forms CR-290 and CR-290.1.</li> </ul>

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			<ul style="list-style-type: none"> <li>As to [item] 12 on [form] CR-290 ... and [item] 10 on [form] CR-290.1: This could be problematic should it be determined the suspension of the sentence is per count and not per case.</li> <li>As to [item] 13 on CR-290 and [item] 8 (especially) on CR-290.1: There is very little room left for “other orders.” We’ll probably end up preparing attachments to reflect victim restitution breakdown and victim restitution and/or restitution fine balances (on [violation of probation] cases).</li> <li>As to [item] 5 on CR-290.1: The word “revoked” is missing on the 1202.45 parole revocation fine at the end of the line.</li> </ul>	<ul style="list-style-type: none"> <li>Periods of mandatory supervision should be imposed as aggregate terms, not per count.</li> <li>Additional space is unavailable to amend the form as suggested.</li> <li>The committee has added the word “revoked” as suggested.</li> </ul>
9.	Superior Court of Tulare County Ms. Stephanie Cameron Court Operations Manager	AM	In reviewing the <i>Felony Abstract of Judgment-Determinant</i> forms (CR-290 and CR-290.1), they still refer to the “court security fee.” [Assembly Bill] 118 re-named the court security fee the “court operations assessment” effective June 30, 2011.	The committee has revised the form accordingly. Please see the related committee response to the comments in item 3.
10.	Ms. Kathy Williams Court Operations Manager Superior Court of San Diego County	AM	<ul style="list-style-type: none"> <li>Under [item] 5, the “court security fee” should be changed to “court operations assessment.”</li> </ul>	<ul style="list-style-type: none"> <li>The committee has revised the form accordingly. Please see the related committee response to the comments in item 3.</li> </ul>

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			<ul style="list-style-type: none"> <li>• On [item] 7 on [form CR-290.1], there should be a check box added in front of CDCR and then another check box added for “county jail.” If there is an immediate sentence on a local prison commit[ment] and a post sentence report is ordered, it needs to be sent to the county jail where the defendant is being housed and not sent to CDCR.</li> <li>• Under [item] 4 [on forms CR-290 and CR-290.1], when pre-confinement credits equal or exceed time imposed on a local prison commit[ment], the defendant is <u>not</u> ordered to report to [a] local parole office upon release. This is only for defendants who would have been housed in state prison. We need language added for paper commit[ment]s on defendants who have exceeded their time imposed for local prison commits. Our suggested language was: “PC1170(h). Pre-confinement credits equal or exceed time imposed. (Paper Commitment). Defendant released.”</li> </ul>	<ul style="list-style-type: none"> <li>• The probation report requirements of Penal Code section 1203c only apply to commitments to CDCR institutions, i.e., not county jails.</li> <li>• The committee has revised the form to address this comment. Please see the relevant committee response to the comments in item 8 above.</li> </ul>

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