



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: December 13, 2013

Title	Agenda Item Type
Juvenile Law: Technical Change to Joinder Rule	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 5.575	January 1, 2014
Recommended by	Date of Report
Administrative Office of the Courts (AOC) Corby Sturges, Attorney Center for Families, Children & the Courts	November 19, 2013
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Executive Summary

The Administrative Office of the Courts (AOC) recommends amending rule 5.575, which addresses notice requirements for a joinder hearing, to conform to amendments circulated for comment during the spring 2013 invitation-to-comment cycle and recommended by the Family and Juvenile Law Advisory Committee for adoption. Language that the committee had recommended deleting from the existing rule inadvertently remained in the amendments adopted by the Judicial Council at its October 25, 2013, meeting.

Recommendation

The AOC recommends that the Judicial Council amend rule 5.575 of the California Rules of Court, effective January 1, 2014, to delete surplus language inadvertently retained following circulation for comment in spring 2013.

Previous Council Action

The proposed amendment was circulated as part of item SPR13-24, *Juvenile Law: Access to Services for Children, Nonminors, and Nonminor Dependents*, in spring 2013. Following review

of comments received, the Family and Juvenile Law Advisory Committee recommended that the Judicial Council amend the rule at its October 25, 2013, meeting.¹ Language that the committee had recommended striking from the rule was, however, inadvertently reinserted in the version of the rule forwarded to the Rules and Projects Committee and the council.

Rationale for Recommendation

The recommended change is necessary to conform to the intent of the Family and Juvenile Law Advisory Committee and to articulate a clear and workable procedural requirement.

Rule 5.575(b)(1) currently reads as follows:

Notice to the agency or provider must be given on *Notice of Hearing on Joinder-Juvenile* (form JV-540). The notice must state the allegations of the agency's or provider's failure to meet a legal obligation, as well as any questions the court wants the agency or provider to address.

In response to the amendment of section 362 of the Welfare and Institutions Code by Senate Bill 1048 (Stats. 2012, ch.130), the Family and Juvenile Law Advisory Committee proposed and circulated amendments to paragraph (b)(1) that read as follows:

~~Notice of the hearing on joinder to the agency or provider~~ must be given to the agency on *Notice of Hearing on Joinder—Juvenile* (form JV-540). The notice must clearly describe the legal obligation at issue, the facts and circumstances alleged to constitute the agency's failure to meet that obligation, state the allegations of the agency's or provider's failure to meet a legal obligation, as well as and any issues or questions the court wants expects the agency or provider to address at the hearing.

Following review of comments received, the advisory committee recommended that the Judicial Council adopt paragraph (b)(1), with the struck-through material deleted, at its October 25, 2013, meeting. However, between the committee's final recommendation and the submission of the proposal to the Rules and Projects Committee, the lines striking through the text to be deleted were inadvertently removed. The language that the committee had recommended striking from the rule was thereby reinserted into the version of the rule forwarded to the Rules and Projects Committee and ultimately acted on by the council. Unless the council acts as proposed in this report, the rule that takes effect on January 1, 2014, will include both added language and language intended for deletion and will cause confusion for courts and litigants.

¹ See *Juvenile Law: Access to Services for Children, Nonminors, and Nonminor Dependents* (item A21 on the agenda for the October 25, 2013, Judicial Council meeting), www.courts.ca.gov/documents/jc-20131025-itemA21.pdf.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for public comment because it recommends a technical amendment. The same rule, including the same amendments, was circulated for comment in spring 2013. No comments were received with respect to the amendments in the current proposal. See the discussion of previous council action, above, for additional information.

Implementation Requirements, Costs, and Operational Impacts

No operational impact is expected. Because the proposed technical amendment will take effect on the same date as the amendments approved on October 25, 2013, all amendments to rule 5.575 will be published and take effect at the same time.

Attachments

1. Cal. Rules of Court, rule 5.575, at page 4

Rule 5.575 of the California Rules of Court is amended, effective January 1, 2014, to read:

1 **Rule 5.575. Joinder of Agencies**

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3 (a) * * *

4

5 **(b) Notice and Hearing**

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9 (1) Notice of the hearing ~~to the agency or provider~~ must be given to the agency
10 on *Notice of Hearing on Joinder—Juvenile* (form JV-540). The notice must
11 clearly describe the legal obligation at issue, the facts and circumstances
12 alleged to constitute the agency’s failure to meet that obligation, ~~state the~~
13 ~~allegations of the agency’s or provider’s failure to meet a legal obligation, as~~
14 ~~well as~~ and any issues or questions the court ~~wants~~ expects the agency ~~or~~
15 ~~provider~~ to address at the hearing.

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17 (2)–(4) * * *

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