

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date:

Rules Committee action requested [Choose from drop down menu below]:

Submit to JC (without circulating for comment)

Title of proposal: Rules and Forms: Order on Petition for Relief From Financial Obligations During Military Service

Proposed rules, forms, or standards (include amend/revise/adopt/approve):

Revise form MIL-020

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Annual agenda approved by Rules Committee on (date): November 1, 2022

Project description from annual agenda: Develop rule and form changes as necessary to make corrections and adjustments meeting the criteria of rule 10.22(d)(2): "a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy...." These include revisions to forms that contain dollar figures based on statutory criteria that the Judicial Council is mandated to adjust on a regular basis.

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

This is a minor substantive change that is unlikely to create controversy made necessary by the enactment of SB 1311 last year. The proposed revision is limited to the simplest change to reflect the amended statute. The committee anticipates adding a proposal to its annual agenda next year to further revise the form and others with the benefit of comments.

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.)

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-101

For business meeting on July 20–21, 2023

Title

Rules and Forms: Order on Petition for Relief From Financial Obligations During Military Service

Rules, Forms, Standards, or Statutes Affected

Revise form MIL-020

Recommended by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Agenda Item Type

Action Required

Effective Date

July 24, 2023

Date of Report

May 31, 2023

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends the revision of a Judicial Council form to reflect statutory amendments prohibiting the accrual of interest on deferred financial obligations for members of the United States military reserves or the National Guard who are called to active duty.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective July 24, 2023, revise *Order on Petition for Relief From Financial Obligations During Military Service* (form MIL-020) to reflect recent changes to Military and Veterans Code section 409.3, as enacted in Senate Bill 1311 (Stats 2022, ch. 620).

The proposed revised form is attached at pages 4–5.

Relevant Previous Council Action

The council approved form MIL-020 (along with two other forms), effective January 1, 2012, to assist courts and servicemembers in filing and handling petitions for the special relief from

financial obligations provided to servicemembers called up to active duty available under California law. The council has not revised form MIL-020 since it was approved.

Analysis/Rationale

California law provides in section 409.3 of the Military and Veterans Code¹ that members of the United States military reserves or the National Guard who are called for active duty may be temporarily relieved from financial obligations in situations where their active duty materially affects their ability to pay such obligations. The Legislature amended section 409.3, effective January 1, 2023, to clarify that interest “shall not be charged or accumulated during the period of deferment unless otherwise ordered by the court.” (Mil. & Vet. Code, § 409.3(d)(1) & (d)(2).)

The amendments to section 409.3 necessitate minor revisions to form MIL-020. Specifically, item 6b on the form currently states that interest, at the rate described in the contract, is to be added to the principal balance of the loan and the maturity date of the loan is to be extended based on the petitioner’s time in active service. This proposal removes the statements related to interest in that item, because interest may no longer be automatically accumulated during the deferment, and makes other clarifying changes.²

Policy implications

The proposed form revisions simply implement statutory amendments on existing council forms to ensure that the forms remain consistent with law. Therefore, the policy implications borne out of this proposal are the result of statutory changes and not form revisions.

Comments

This proposal was not circulated for public comment because it contains minor noncontroversial revisions to implement changes in law, and those changes are therefore within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

The alternative to updating the military forms to eliminate the reference to interest accruing would be *not* to update them at this time. The committee considered this option but concluded that taking no action would leave mandatory forms inconsistent with the law and be confusing to litigants who use the forms.

¹ All further citations are to the Military and Veterans Code unless otherwise specified.

² No change is being recommended to the references to interest in item 6c at this time because interest may be charged or accumulated if expressly ordered by the court. Mil. & Vet. Code., § 409.3 (d)(1) & (2), and (e)(1). Item 6c would allow such a term to be included in the order.

Fiscal and Operational Impacts

If a court provides free copies of these forms to parties, it will incur costs to print or duplicate the forms. Courts may also incur self-help training costs regarding the new statutory multipliers. However, the revisions are required to make the forms consistent with current law.

Attachments and Links

1. Form MIL-020, at pages 4–5
2. Link A: Sen. Bill 1311,
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1311

DRAFT

| | |
|--|---|
| ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ EMAIL ADDRESS: _____ ATTORNEY FOR (name): _____ | FOR COURT USE ONLY DRAFT 4/27/2023 NOT APPROVED BY THE JUDICIAL COUNCIL |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: | |
| ORDER ON PETITION FOR RELIEF FROM FINANCIAL OBLIGATIONS DURING MILITARY SERVICE | CASE NUMBER: |

1. The application was duly considered
- a. at a hearing on (date): _____ in Department: _____ of the above-entitled court.
- b. The following persons were present at the hearing:
- (1) Petitioner/Plaintiff (3) Petitioner/Plaintiff's attorney (name): _____
- (2) Respondent/Defendant (4) Respondent/Defendant's attorney (name): _____
- (5) No person appeared

THE COURT FINDS

2. Petitioner is or was an officer or enlisted member of the National Guard or a reservist of the United States military reserves and
- a. has been called or ordered into full-time active duty service in the state or federal armed services or reserves. (Mil. & Vet. Code, § 400.)
- b. is currently in full-time active duty service in the state or federal armed services or reserves. (Mil. & Vet. Code, § 400.)
- c. is within six months of having completed full-time active duty in the state or federal armed services. (Mil. & Vet. Code, §§ 400, 409.3(a).)
- d. none of the above apply to petitioner.
3. Petitioner's ability to pay to respondent a financial obligation or liability incurred before the effective date of the orders for petitioner's most current period of active duty (check one) has has not been materially affected by reason of petitioner's most current military service.
4. Other findings (if any): _____

THE COURT ORDERS

5. The petition for relief is **denied**.
6. The petition for relief is **granted** as follows (check all relief granted):
- a. Petitioner's obligation to pay respondent the financial obligation identified below is deferred (identify financial obligation by creditor, loan number, property address, or other identifying information):

(1) The deferral of payments begins on (date of beginning of active military service): _____

| | |
|--|--------------|
| PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: | CASE NUMBER: |
|--|--------------|

6. a. (2) The deferral of payments ends on *(date of release from active military service)*:
If petitioner is released from active military service before this end date, petitioner must immediately notify respondent of the date of his or her release and must resume payments on the first day of the month following release.
- b. *On deferral of an obligation requiring installment payments:* The obligations of the loan identified above are deferred and the maturity date is to be extended by a period of time equal to the period in which petitioner is in active military service.
- Other terms *(if any)*:
- c. *On deferral of an obligation not requiring installment payments:* The deferred obligation described above is to be paid as follows:
- (1) In a lump sum at the end of the deferral period.
- (2) Over a period of time equal to the period of active military service, in equal monthly payments, with interest accruing at _____ percent per year.
- (3) Other terms *(if any)*:
- d. *On deferral of an obligation to pay income tax:* The obligation of petitioner to pay income tax is deferred until six months after the petitioner's release from active military service. (Mil & Vet. Code, § 409.6.)
- (1) Current expected release date is *(date)*:
- (2) Deferral of payments ends on *(date)*: **If petitioner is released from active military service before this end date, petitioner must immediately notify respondent of the date of his or her release and must resume payments on the first day of the month six months following release.**
- (3) No interest will accrue on the tax amounts during the deferral period, and no penalties will be imposed for nonpayment of taxes during that period.
- e. During the period of deferral, respondent may not exercise any remedies otherwise available for petitioner's failure to comply with the terms of the financial obligation. Respondent may not impose fines, penalties, or late charges and may not institute or continue proceedings to attach or foreclose on property securing the obligation.
7. Other orders *(if any)*:

Date:

 JUDICIAL OFFICER

**ORDER ON PETITION FOR RELIEF FROM
FINANCIAL OBLIGATIONS DURING MILITARY SERVICE**

RULES COMMITTEE ACTION REQUEST FORM

Rules Committee Meeting Date:

Rules Committee action requested [Choose from drop down menu below]:
Submit to JC (without circulating for comment)

Title of proposal: Rules and Forms: Annual Cost of Living Adjustment

Proposed rules, forms, or standards (include amend/revise/adopt/approve):
Revise form EJ-156

Committee or other entity submitting the proposal:
Judicial Council Staff

Staff contact (name, phone and e-mail): James Barolo, 415-865-8928, james.barolo@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:
Annual agenda approved by Rules Committee on (date):
Project description from annual agenda:

Out of Cycle: *If requesting September 1 effective date or out of cycle, explain why:*

Additional Information for Rules Committee: (To facilitate Rules Committee's review of your proposal, please include any relevant information not contained in the attached summary.)

Code of Civil Procedure, section 704.220(a) provides that money in a judgement debtor's deposit account is exempt from judgment up to the amount equal to the minimum basic standard of care for a family of four. The amount of the minimum standard of care is adjusted annually effective every July 1. This proposal updates the Judicial Council form that lists the dollar amounts of exemptions from judgment (EJ-156) to include the adjusted standard of care figure effective July 24, 2023.

Additional Information for JC Staff (provide with reports to be submitted to JC):

- **Form Translations** (check all that apply)

This proposal:

- includes forms that have been translated.
- includes forms or content that are required by statute to be translated. Provide the code section that mandates translation: [Click or tap here to enter text.](#)
- includes forms that staff will request be translated.

- **Form Descriptions** (for any proposal with new or revised forms)

The forms in this proposal will require new or revised form descriptions on the JC forms webpage. (If this is checked, the form descriptions should be approved by a supervisor before submitting this RAR.).

- **Self-Help Website** (check if applicable)

This proposal may require changes or additions to self-help web content.



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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-128

For business meeting on July 20–21, 2023

Title

Rules and Forms: Annual Cost of Living
Adjustment

Agenda Item Type

Action Required

Effective Date

July 24, 2023

Date of Report

May 31, 2023

Rules, Forms, Standards, or Statutes Affected

Revise form EJ-156

Contact

James Barolo, 415-865-8928
james.barolo@jud.ca.gov

Recommended by

Judicial Council staff
James Barolo, Attorney
Legal Services

Executive Summary

The Code of Civil Procedure requires the Judicial Council to publish a list of the current dollar amounts of exemptions from judgment. The Code of Civil Procedure also provides that the dollar amount of one such exemption is based on an amount that is adjusted effective July 1. Accordingly, Judicial Council staff recommend revising the form that contains the list of dollar amounts of exemptions from judgment to reflect the updated figure.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective July 24, 2023, revise *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156) to reflect increases in the minimum basic standard of care for a family of four.

Proposed revised form EJ-156 is attached at pages 3–4.

Relevant Previous Council Action

The Judicial Council last revised form EJ-156 effective July 15, 2022, to reflect the July 2022 adjustment to the minimum basic standard of care for a family of four.

Analysis/Rationale

Code of Civil Procedure section 703.150(f) requires the Judicial Council to publish a list of the current dollar amounts of exemptions from judgment. The council publishes and maintains such a list on *Current Dollar Amounts of Exemptions From Enforcement of Judgments* (form EJ-156). One of those exemptions from judgment is money in a judgment debtor’s deposit account “in an amount equal to or less than the minimum basic standard of adequate care for a family of four,” which is annually adjusted by the State Department of Social Services. (Code Civ. Proc., § 704.220(a).) On May 26, 2023, the California Department of Social Services published the adjusted amount, which becomes effective July 1, 2023.¹ Specifically, the amount of the exemption money in a judgment debtor’s deposit account would increase from \$1,947 to \$2,080.

Policy implications

There are no policy implications to this action, which is required by statute.

Comments

This proposal was not circulated for comment because the changes to the dollar amounts are technical, required by statute, and not subject to discretion.

Alternatives considered

No alternatives to publishing adjusted dollar amounts were considered in light of the statutory mandate that the council publish a list of the current dollar amounts of exemptions to judgment.

Fiscal and Operational Impacts

The impacts on the trial courts should be minimal. Form EJ-156 is informational only and is not filed with or completed by the courts.

Attachments and Links

1. Form EJ-156, at pages 3–4

¹ Cal. Health & Human Services Agency, *All County Letter 23-48 California Work Opportunity and Responsibility to Kids, Refugee Cash Assistance, Entrant Cash Assistance, and the Trafficking and Crimes Victim Assistance Program: Cost of Living Adjustment Increase to the Minimum Basic Standard of Adequate Care and Income In-Kind Levels* (May 26, 2023), <https://cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2023/23-48.pdf?ver=2023-05-25-094822-990>.

CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS
Code of Civil Procedure sections 703.140(b) and 704.010 et seq.

EXEMPTIONS UNDER SECTION 703.140(b)

The following lists the current dollar amounts of exemptions from enforcement of judgment under Code of Civil Procedure section 703.140(b) used in a case under title 11 of the United States Code (bankruptcy).

These amounts are effective April 1, 2022. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(e).)

| <u>Code Civ. Proc., § 703.140(b)</u> | <u>Type of Property</u> | <u>Amount of Exemption</u> |
|--|--|----------------------------|
| <p>(1)</p> <p>DRAFT 5/31/2023 NOT APPROVED BY THE JUDICIAL COUNCIL</p> <p>(2)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p> <p>(6)</p> <p>(8)</p> <p>(11)(D)</p> | The debtor's aggregate interest in real property or personal property that the debtor or a dependent of the debtor uses as a residence, or in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence | \$ 31,950 |
| | The debtor's interest in one or more motor vehicles | \$ 6,375 |
| | The debtor's interest in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor (value is of any particular item) | \$ 800 |
| | The debtor's aggregate interest in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor | \$ 1,900 |
| | The debtor's aggregate interest, plus any unused amount of the exemption provided under paragraph (1), in any property | \$ 1,700 |
| | The debtor's aggregate interest in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor | \$ 9,525 |
| | The debtor's aggregate interest in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent | \$ 17,075 |
| | The debtor's right to receive, or property traceable to, a payment on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent | \$ 31,950 |

CURRENT DOLLAR AMOUNTS OF EXEMPTIONS FROM ENFORCEMENT OF JUDGMENTS
Code of Civil Procedure sections 703.140(b) and 704.010 et seq.
EXEMPTIONS UNDER SECTION 704.010 et seq.

The following lists the current dollar amounts of exemptions from enforcement of judgment under title 9, division 2, chapter 4, article 3 (commencing with section 704.010) of the Code of Civil Procedure.

The amount of the automatic exemption for a deposit account under section 704.220(a) is effective July 1, 2023, and unless otherwise provided by statute after that date, will be adjusted annually, effective July 1, by the Department of Social Services under Welfare and Institutions Code section 11453 to reflect the minimum basic standard of care for a family of four as established by § 11452.*

The other amounts are all effective April 1, 2022. Unless otherwise provided by statute after that date, they will be adjusted at each three-year interval, ending on March 31. The amount of the adjustment to the prior amounts is based on the change in the annual California Consumer Price Index for All Urban Consumers for the most recent three-year period ending on the preceding December 31, with each adjusted amount rounded to the nearest \$25. (See Code Civ. Proc., § 703.150(e).)

| <u>Code Civ. Proc. Section</u> | <u>Type of Property</u> | <u>Amount of Exemption</u> |
|--------------------------------|--|----------------------------|
| 704.010 | Motor vehicle (any combination of aggregate equity, proceeds of execution sale, and proceeds of insurance or other indemnification for loss, damage, or destruction) | \$ 3,625 |
| 704.030 | Material to be applied to repair or maintenance of residence | \$ 3,825 |
| 704.040 | Jewelry, heirlooms, art | \$ 9,525 |
| 704.060 | Personal property used in debtor's or debtor's spouse's trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$4,850) | \$ 9,525 |
| 704.060 | Personal property used in debtor's and spouse's common trade, business, or profession (amount of exemption for commercial motor vehicle not to exceed \$9,700) | \$ 19,050 |
| 704.220 | Deposit account, generally (exemption without claim; amount per judgment debtor, section 704.220(a),(e)) ¹ | \$ 2,080* |
| 704.080 | Deposit account with direct payment of social security or public benefits (exemption without claim, section 704.080(b)) ² | |
| | • Public benefits, one depositor is designated payee | \$ 1,900 |
| | • Social security benefits, one depositor is designated payee | \$ 3,825 |
| | • Public benefits, two or more depositors are designated payees ³ | \$ 2,825 |
| | • Social security benefits, two or more depositors are designated payees ³ | \$ 5,725 |
| 704.090 | Inmate trust account | \$ 1,900 |
| | Inmate trust account (restitution fine or order) | \$ 325 ⁴ |
| 704.100 | Aggregate loan value of unmaturred life insurance policies | \$ 15,250 |

¹ This exemption does not preclude or reduce other exemptions for deposit accounts. However, if the exemption amount for the deposit account applicable under other automatic exemptions—such as those applicable for direct deposit of social security benefits or public benefits—is greater under the other exemptions, then those apply instead of this one. (Code Civ. Proc., § 704.220(b).)

² The amount of a deposit account with direct deposited funds that exceeds exemption amounts shown is also exempt to the extent it consists of payments of public benefits or social security benefits. (Code Civ. Proc., § 704.080(c).)

³ If only one joint payee is a beneficiary of the payment, the exemption is in the amount available to a single designated payee. (Code Civ. Proc., § 704.080(b)(3) and (4).)

⁴ This amount is not subject to adjustments under Code Civ. Proc., § 703.150.