

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR19-29

Title	Action Requested
Family Law: Certification of Statewide Uniform Guideline Support Calculators	Review and submit comments by June 10, 2019
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 5.275	January 1, 2020
Proposed by	Contact
Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Gary Slossberg, 916-263-0660 gary.slossberg@jud.ca.gov

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee proposes amending California Rules of Court, rule 5.275, to require guideline child support calculators to display the low-income adjustment range on the first page of the calculator results printout, if applicable per Family Code section 4055(b)(7), and to delete the requirement to submit an application form and fee for certification.

Background

Family Code section 3830 mandates that courts may use only guideline child support software that “conforms to rules of court adopted by the Judicial Council prescribing standards for the software.” These standards are established by rule 5.275 (adopted as rule 1258). Since the rule’s adoption in December 1993, the Judicial Council each year has certified guideline child support software that meets the standards. Under rule 5.275(c), the certifications last for one year, and then the software must be recertified to continue to be approved for court use.

Family Code section 4055(b)(7) states that there is a rebuttable presumption that obligors with a net monthly income of less than \$1,500 (adjusted annually for cost-of-living increases) should be entitled to a low-income adjustment to reduce their child support obligation. Per Family Code section 4055(c), the low-income adjustment is displayed on guideline child support software programs as a range, with the high end of the range being the unadjusted guideline support amount and the low end being the lowest amount of support allowed per Family Code section 4055(b)(7).

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 These proposals are circulated for comment purposes only.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 *Review of Statewide Uniform Child Support Guideline 2017* observed, based on the review of case files and discussions with focus group participants, that the application of the low-income adjustment is inconsistent among judicial officers and that uniformity in how the low-income adjustment range is displayed on guideline child support calculators could lead to more consistency in its application. Family Code section 4055(c) does not specify how the range is to be displayed. Consequently, because the six currently approved guideline child support software programs vary in how each displays the low-income adjustment range, the range may be more apparent on some programs than on others, which potentially is one of the causes of the inconsistent application of the low-income adjustment. Requiring all printouts of guideline calculator results to display the low-income adjustment range on the first page should serve to remedy this problem. Because some calculators offer multiple types of reports to display the calculator results, the proposed rule would mandate that the low-income adjustment range be displayed only on the first page of the report that shows the user inputs. This type of report generally is the most common type used to show the guideline child support amount for court proceedings.

Additionally, rule 5.275(i) requires software developers to complete and submit an application form supplied by the Judicial Council, along with the application fee of \$250, to be certified. For the past several years, the Judicial Council's AB 1058 Program has been responsible for the certification of software. In practice, developers wishing to have their guideline child support software certified have communicated directly with AB 1058 Program staff, rather than through an application form. Moreover, because the AB 1058 Program is federally funded, any fees received would have to be forwarded to the federal government, rather than being available to offset the costs of certifying the software. As such, the AB 1058 Program has returned any application fees submitted. To align with current practice, the committee proposes amending subdivision (i) to remove the requirement to submit an application form and fee to the Judicial Council to be certified and to replace it with a requirement that any person seeking certification of software must apply in writing to the Judicial Council, but not on any specified form.

The Proposal

The committee recommends the following specific changes:

- Amend rule 5.275(b) to add a provision requiring the printout of the calculation results to display the range of the low-income adjustment as permitted by Family Code section 4055(b)(7) on the first page of the results, if the low-income adjustment applies.
- Amend rule 5.275(i) to remove the requirement for guideline software developers to submit an application form supplied by the Judicial Council and a fee for certification of the software.

Alternatives Considered

The committee considered making no changes to rule 5.275. Adding a provision requiring the low-income adjustment range to be displayed on the first page of the results printout would require some developers to make programmatic changes to their software. If making these

changes were overly burdensome for some developers, they might stop providing their product to California. Before formulating this proposal, staff reached out to the six current guideline calculator software developers. None expressed any concerns with adjusting their programs to display the low-income adjustment range on the first page of the printout. As such, the committee determined that adding this requirement to rule 5.275 did not appear to be burdensome to the developers and should serve to increase consistency in the application of the low-income adjustment.

The committee also considered not changing subdivision (i) of the rule, which requires developers to submit an application form and \$250 fee to have their software certified. Given the challenges for a federally funded program to accept a fee and given the program's current practice of not using a specific application form, the committee opted to propose amending the subdivision to align with current practice.

Implementation Requirements, Costs, and Operational Impacts

The committee does not anticipate that this proposal will result in any costs to the branch.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Are there specific changes that would improve the proposed rule? If so, please specify the recommended changes.
- Does the proposal appropriately address the stated purpose?
- What is the impact of this proposal on low- and moderate-income persons?

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 would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 5.275, at page 5
2. Link A: Family Code section 4055,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4055.&lawCode=FAM
3. Link B: Family Code section 3830,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3830.&lawCode=FAM

Rule 5.275 of the California Rules of Court would be amended, effective January 1, 2020, to read:

1 **Rule 5.275. Standards for computer software to assist in determining support**

2
3 (a) * * *

4
5 (b) **Standards**

6
7 The standards for computer software to assist in determining the appropriate amount of
8 child or spousal support are:

9
10 (1)–(5) * * *

11
12 (6) The printout of the calculator results must display, on the first page of the results, the
13 range of the low-income adjustment as permitted by Family Code section
14 4055(b)(7), if the low-income adjustment applies. If the software generates more
15 than one report of the calculator results, the range of the low-income adjustment only
16 must be displayed on the report that includes the user inputs.

17
18 ~~(6)~~ (7) The software or a license to use the software must be available to persons
19 without restriction based on profession or occupation.

20
21 ~~(7)~~ (8) The sale or donation of software or a license to use the software to a court or a
22 judicial officer must include a license, without additional charge, to the court or
23 judicial officer to permit an additional copy of the software to be installed on a
24 computer to be made available by the court or judicial officer to members of the
25 public.

26
27 (c)–(h) * * *

28
29 (i) **Application**

30
31 ~~An application for certification must be on a form supplied by the Judicial Council and~~
32 ~~must be accompanied by an application fee of \$250. A person seeking certification of~~
33 software must apply in writing to the Judicial Council.

34
35 (j) * * *