



Judicial Council of California

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INVITATION TO COMMENT

SPR24-15

Title	Action Requested
Criminal Law: Parole Period Advisement	Review and submit comments by May 3, 2024
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 4.433	January 1, 2025
Proposed by	Contact
Criminal Law Advisory Committee Hon. Brian M. Hoffstadt, Chair	Sarah Fleischer-Ihn, 415-865-7702 sarah.fleischer-ihn@jud.ca.gov

Executive Summary and Origin

The Criminal Law Advisory Committee proposes amending rule 4.433 of the California Rules of Court to add a reference to the parole periods described in Penal Code section 3000.01. This reference would appear in subdivision (e), which describes the sentencing judge’s advisement to the defendant about the parole period to be served after expiration of the sentence.

The Proposal

Rule 4.433 outlines matters for the court to consider at sentencing, including a requirement for the sentencing judge to inform a defendant “[u]nder section 1170(c) of the parole period provided by section 3000 to be served after expiration of the sentence, in addition to any period of incarceration for parole violation.” (Cal. Rules of Court, rule 4.433(e)(1); see Pen. Code, § 1170(c)¹.) Penal Code section 3000² sets a three-year parole period for persons who served a determinate prison sentence for a serious or violent felony committed on or after June 1, 2013, with specified exceptions. (§ 3000(b)(2)(B).)

Beginning August 6, 2020, section 3000.01 limits the parole period to two years for persons sentenced to a determinate term in state prison and released on or after July 1, 2020, with

¹ Under section 1170(c), “[t]he court shall also inform the defendant that as part of the sentence after expiration of the term, [the defendant] may be on parole for a period as provided in section 3000 or 3000.08 or postrelease community supervision for a period as provided in Section 3451.”

² All further references are to the Penal Code unless otherwise specified.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

specified exceptions.³ *People v. Tilley* (2023) 92 Cal.App.5th 772, 779–780 described how this legislative change has created some ambiguity and inconsistency:

[D]espite adding section 3000.01 limiting the parole term for those released from prison on or after July 1, 2020, the Legislature did not amend the relevant provisions of sections 3000 and 3000.08, which still provide the inmate shall be released on parole for a period of three years. (§ 3000, subd. (b)(2)(B).) Section 1170 and California Rules of Court, rule 4.433 still require the court to advise as to the period delineated in section 3000, and section 3000 makes no reference to section 3000.01. The Judicial Council forms similarly indicate the parole term is three years under section 3000, subdivision (b). These statutory inconsistencies put trial courts in a bit of a conundrum when advising of the parole term, but as noted above, it is up to the Legislature to amend all the relevant statutes to reflect the correct parole terms.

As noted, rule 4.433(e) currently only refers to the parole period under section 3000. To address the issue identified in *Tilley* and guide trial courts in providing accurate information to defendants about parole periods to be served after expiration of a sentence, the committee proposes amending the rule to add a reference to parole periods under section 3000.01.

Alternatives Considered

The committee discussed whether to take a more flexible approach and amend the language to be more general by requiring courts to inform the defendant “of the parole period to be served after expiration of the sentence,” without reference to specific statutes. However, most committee members supported referencing specific statutes to better aid sentencing courts in accurately informing defendants of relevant parole periods. The committee requests specific comments on whether the general language is preferred.

Fiscal and Operational Impacts

The committee anticipates no fiscal or operational impacts because of this proposal.

³ Sen. Bill 118; Stats. 2020, ch. 29. SB 118 was a public safety budget trailer bill that took effect immediately upon the Governor’s signature.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should the advisal on parole periods to be served after expiration of a sentence be more general and not refer to specific statutes?

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 4.433, at page 4
2. Link A: Pen. Code, § 3000.01,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=3000.01.&awCode=PEN

Rule 4.433 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 4.433. Matters to be considered at time set for sentencing**

2
3 **(a)–(b)** * * *

4
5 **(c)** If a sentence of imprisonment is to be imposed, or if the execution of a sentence of
6 imprisonment is to be suspended during a period of probation, the sentencing judge
7 must:

8
9 (1) Determine, under section 1170(b), whether to impose one of the three
10 authorized terms of imprisonment referred to in section 1170(b), or any
11 enhancement, and state on the record the reasons for imposing that term;

12
13 (2) Determine whether any additional term of imprisonment provided for an
14 enhancement charged and found will be stricken;

15
16 (3) Determine whether the sentences will be consecutive or concurrent if the
17 defendant has been convicted of multiple crimes;

18
19 (4) Determine any issues raised by statutory prohibitions on the dual use of facts
20 and statutory limitations on enhancements, as required in rules 4.420(c) and
21 4.447; and

22
23 (5) Pronounce the court’s judgment and sentence, stating the terms thereof and
24 giving reasons for those matters for which reasons are required by law.

25
26 **(d)** * * *

27
28 **(e)** When a sentence of imprisonment is imposed under (c) or under rule 4.435, the
29 sentencing judge must inform the defendant:

30
31 (1) ~~Under section 1170(e)~~ Of the parole period provided by section 3000 under
32 section 1170(c), or the parole period provided by section 3000.01, to be
33 served after expiration of the sentence, in addition to any period of
34 incarceration for parole violation;

35
36 (2) Of the period of postrelease community supervision provided by section 3456
37 to be served after expiration of the sentence, in addition to any period of
38 incarceration for a violation of postrelease community supervision; or

39
40 (3) Of any period of mandatory supervision imposed under section
41 1170(h)(5)(A) and (B), in addition to any period of imprisonment for a
42 violation of mandatory supervision.