



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 20, 2014

Title	Agenda Item Type
Criminal Procedure: Intercounty Transfers of Probation and Mandatory Supervision Cases	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 4.530	February 24, 2014
Recommended by	Date of Report
Criminal Law Advisory Committee	January 17, 2014
Hon. Tricia Ann Bigelow, Chair	Contact
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Executive Summary

The Criminal Law Advisory Committee recommends amending rule 4.530 of the California Rules of Court, which governs intercounty transfers of probation and mandatory supervision cases, to delete an exception for certain drug possession cases commonly known as Proposition 36 cases, as required by recent legislation that amended Penal Code section 1203.9 to apply a single intercounty transfer procedure to all probation and mandatory supervision cases.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective February 24, 2014, amend rule 4.530 of the California Rules of Court to apply the rule to all probation cases by deleting the following exception for Proposition 36 cases from subdivision (a): “[The rule] does not apply to transfers of cases in which probation has been granted under Penal Code section 1210.1.”

The text of the proposed amendment to rule 4.530 is attached at page 3.

Previous Council Action

The Judicial Council initially adopted rule 4.530 effective July 1, 2010. As explained below, the Legislature recently revised Penal Code section 1203.9 to delete a distinct transfer procedure for probation cases under Penal Code section 1210.1, commonly known as Proposition 36 cases, thereby applying a single transfer procedure to all probation cases. The Judicial Council supported this legislation.

Rationale for Recommendation

Penal Code 1203.9 governs intercounty transfers of probation and mandatory supervision cases and requires that the Judicial Council adopt rules of court to prescribe certain procedural requirements.

Recent legislation¹ amended Penal Code section 1203.9 to eliminate a distinct transfer procedure for Proposition 36 cases. As a result, all probation and mandatory supervision cases must be transferred under a single procedure. Rule 4.530, however, still includes an exception for Proposition 36 cases, as required by the previous version of the statute. To update the rule in response to the recent legislative amendments to Penal Code section 1203.9, the Criminal Law Advisory Committee recommends deleting the exception for Proposition 36 cases to apply rule 4.530 to all probation and mandatory supervision cases.

Comments, Alternatives Considered, and Policy Implications

Because the amendment to rule 4.530 is needed to accurately reflect the recent changes in the law and no issues of interpretation or application exist, the revisions were not circulated for public comment and no alternatives were considered.

Implementation Requirements, Costs, and Operational Impacts

Aside from minimal judicial education and court staff training, no significant implementation requirements, costs, or operational impacts for courts are expected.

Attachments

1. Proposed amendment to rule 4.530 of the California Rules of Court, at page 3.

¹ Assem. Bill 492 (Quirk; Stats. 2013, ch. 13, p. 97).

Rule 4.530 of the California Rules of Court is amended, effective February 24, 2014, to read:

1 **Rule 4.530. Intercounty transfer of probation and mandatory supervision cases**

2
3 **(a) Application**

4
5 This rule applies to intercounty transfers of probation and mandatory supervision
6 cases under Penal Code section 1203.9. ~~It does not apply to transfers of cases in~~
7 ~~which probation has been granted under Penal Code section 1210.1.~~

8
9 **(b) Definitions**

10
11 As used in this rule:

- 12
13 (1) “Transferring court” means the superior court of the county in which the
14 supervised person is supervised on probation or mandatory supervision.
15
16 (2) “Receiving court” means the superior court of the county to which transfer of
17 the case and probation or mandatory supervision is proposed.

18
19 **(c)–(g) * * ***