



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

Title	Agenda Item Type
Criminal Justice Realignment: Petitions for Revocation of Supervision	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise form CR-300	January 1, 2015
Recommended by	Date of Report
Criminal Law Advisory Committee	October 15, 2014
Hon. Tricia A. Bigelow, Chair	Contact
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Executive Summary

The Criminal Law Advisory Committee recommends revising the *Petition for Revocation* (form CR-300) to apply the form to proceedings to revoke probation or mandatory supervision under Penal Code section 1170(h)(5)(B) in response to recent legislation that applied long-standing probation revocation procedures to all categories of supervision engendered by criminal justice realignment. This proposal was developed at the request of courts to promote uniform revocation procedures.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2015, revise the *Petition for Revocation* (form CR-300) to:

1. Add check boxes to the caption of the form for supervising agencies to note that the petition also applies to revocations of probation or mandatory supervision;
2. Replace the data field for the supervisee's "CDCR Number" with one for the supervisee's "Supervising Agency Number"; and

3. Add the following phrase to the conviction information section in item 3, which was inadvertently deleted during a past revision: “and sentenced to (*specify sentence*).”

The revised form is attached at page 5.

Previous Council Action

After criminal justice realignment legislation was enacted in 2011, the Judicial Council adopted the *Petition for Revocation* (form CR-300) for use by supervising agencies to initiate revocations of postrelease community supervision (PRCS) under Penal Code section 3455. The form was then amended in 2012 to apply to parole revocations and revised from mandatory to optional.¹

Rationale for Recommendation

Criminal justice realignment created two new categories of supervision and transferred parole revocation responsibilities to the courts. As a result, courts became responsible for hearing all categories of supervision revocation proceedings.

Recent legislation amended Penal Code section 1203.2 to apply long-standing probation revocation procedures to all postrealignment categories of supervision, including parole, PRCS, and mandatory supervision under section 1170(h)(5)(B).² This recommendation was developed in response to this legislation at the request of courts to promote uniform revocation procedures for all supervision categories.

To apply the form to all supervision categories governed by Penal Code section 1203.2, the committee recommends adding check boxes to the caption of the form for supervising agencies to note that the petition applies to revocations of probation or mandatory supervision.

The committee further recommends replacing the data field for the supervisee’s “CDCR Number” with the supervisee’s “Supervising Agency Number” to encompass all supervising agencies.

In addition, the committee recommends adding the following phrase to the conviction information section in item 3, which was inadvertently deleted during a past revision: “and sentenced to (*specify sentence*).”

¹ In 2013, the Criminal Law Advisory Committee circulated proposed revisions to the form that, among other things, would have returned to the form a previously deleted data field for courts to note certain probable cause findings. The committee, however, ultimately declined to recommend those proposed revisions to the Judicial Council because the findings are not expressly required by statute.

² Senate Bill 76 (Comm. on Budget & Review; Stats. 2013, ch. 32).

Comments, Alternatives Considered, and Policy Implications

The proposed revisions circulated for public comment in spring 2014. The comment period ended on June 18th. A total of seven comments were received. Of those, four commentators agreed with the proposal and three agreed with the proposal if modified. A chart providing all of the comments received and committee recommendations is attached at pages 6-13.

Notable comments

Notable comments and committee responses include:

- **Additional types of petitions to revoke:** Both the Superior Court of Los Angeles County and the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Working Group suggested revising the form to apply to additional categories of revocation, including misdemeanor probation revocations in lieu of new filings, deferred entry of judgment, post-filing diversion under Penal Code section 1001, and applications to reentry court under Penal Code section 3015. The committee declined the suggestion because the other categories of revocation and application to reentry courts are not conducted under the revocation procedures prescribed by Penal Code section 1203.2.
- **Request for warrant:** The same two commentators also suggested adding a data field to enable supervising agencies to request a warrant in conjunction with a petition to revoke. The committee declined the suggestion because, as of July 1, 2013, Judicial Council form CR-301, *Warrant Request and Order*, has been available for use by supervising agencies to request warrants for violations of parole and PRCS. The committee, however, will consider revising form CR-301 to apply to probation and mandatory supervision at a future meeting.
- **Title change:** One commentator suggested changing the case title in the header of the form from “IN THE MATTER OF (*name of supervised person*)” to “PEOPLE v. (*name of defendant*)” because in cases involving probation and mandatory supervision, the alleged violation is part of the underlying file. Thus, “PEOPLE v. (*name of defendant*)” would be more appropriate in those cases. The committee declined this suggestion as unnecessary because the current title allows for the supervising agency to incorporate the name of the underlying file.

Alternatives

The committee alternatively considered not revising the form to apply to probation and mandatory supervision. The committee, however, decided to recommend the revisions to promote uniform revocation procedures for all supervision categories.

Implementation Requirements, Costs, and Operational Impacts

Expected costs are limited to training and the production of new forms. No other implementation requirements, costs, or operational impacts for courts are expected.

Relevant Strategic Plan Goals and Operational Plan Objectives

The proposed revisions support the policy underlying Goal III, Modernization of Management and Administration, in the Operational Plan for California’s Judicial Branch. Specifically, these revisions support Goal III, Part B, objective 5, to “[d]evelop and implement effective trial... management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases” through “improved forms.”

Attachments and Links

1. Form CR-300, at page 5
2. Chart of comments, at pages 6–13

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Criminal Justice Realignment: Petitions for Revocation of Supervision (revise form CR-300)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Judges Association Lexi Howard Legislative Director	A	<p>The California Judges Association supports the Criminal Law Advisory Committee proposed revision to the <i>Petition for Revocation</i>, Form CR-300, to apply the form to proceedings to revoke probation and mandatory supervision under Penal Code section 1170(h)(5)(B).</p> <p>This proposal promotes uniform revocation procedures in response to recent legislation that applied longstanding probation revocation procedures to all categories of supervision enacted by criminal justice realignment. The revisions are appropriate and needed.</p> <p>Thank you for the opportunity to comment on these matters.</p>	No response required.
2.	Orange County Bar Association Thomas Bienert, Jr. President	AM	For probation violations, the number of prior revocations, reinstatements and any custody time served on any prior violation(s) should be included on the face of the petition, perhaps under 4, Supervision Information.	The committee declines this suggestion because information about prior revocations is not always available or necessary during the initial processing of petitions to revoke.
3.	State Bar's Standing Committee on the Delivery of Legal Services Maria Livingston Vice Chair	A	<p>Agree with proposal in its entirety</p> <p>The proposal promotes uniform revocation procedures by eliminating the need for courts and supervising agencies to develop and employ distinct forms for different categories of supervision. The revision also makes it easier to understand the basis for the alleged violations, and would help ensure access to the court system by mandating the use of one form.</p> <p><u>Disclaimer</u> This position is only that of the State Bar of</p>	No response required.

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Criminal Justice Realignment: Petitions for Revocation of Supervision *(revise form CR-300)*

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	Commentator	Position	Comment	Committee Response
			<p>California’s Standing Committee on the Delivery of Legal Services. This position has not been adopted by the State Bar’s Board of Trustees or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.</p>	
4.	Superior Court of Los Angeles County	AM	<p>This form was originally designed to provide supervising county agencies a uniform means to petition the court to revoke, modify or terminate Postrelease community supervision (PRCS) per PC§1203.2. It later was modified to incorporate petitions to revoke or modify supervision by DAPO.</p> <ul style="list-style-type: none"> The current revision, to incorporate petitions to revoke, modify or terminate mandatory supervision and probation is not inclusive of all petitions the court may receive. <p>Specifically, it does not incorporate petitions filed by the jurisdictional prosecutor for misdemeanor to revoke probation in lieu of a new filing, or petitions to violate varying forms of diversion and deferred entry of judgment beginning at PC§1000 et. or applications to the court under PC§3015 for Reentry.</p> <p>Suggested modifications to the proposed CR-300 are:</p>	<ul style="list-style-type: none"> The Committee considered each of the suggestions regarding additional types of petitions to revoke. However, this proposal was designed to promote uniformity among supervising agencies filing petitions to revoke supervision under Penal Code section 1203.2. Thus, the committee declines the suggestions because the other categories of revocation and application to reentry courts are not conducted under the revocation procedures prescribed by Penal Code section 1203.2.

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			<p>(Remove the instructions box in the header caption.)</p> <p>Expand the box “Petition for Revocation” to use the space formerly occupied by the instructions box and add (a) misdemeanor revoke probation in lieu of a new filing, (b) deferred entry of judgment, (c) post filing diversion per PC§1000, and (d) consider further expanding use of this form to include applications to the court under PC§3015 (i.e., Reentry).</p> <ul style="list-style-type: none"> • Understanding requests for warrants may be made when the only alleged violation is absconding, made to the court using the CR- 301, the submitting agency should also have the option to request a warrant with the petition to revoke. A check box with language to request an absconder/arrest/bench warrant should be present. The CR-301 is more DAPO exclusive and is likely not representative of how warrants are requested for petitions under 1203.2, 1000 et seq. by supervising county agencies and jurisdictional prosecutors. • Modify the language in item #3 (Conviction Information) to provide that open charges may be pending (e.g., “The supervised person has been “<i>charged with</i>” “ <i>convicted of</i>” the following offenses”). 	<ul style="list-style-type: none"> • The committee declines the suggestion to add a request for warrant to form CR-300 because the Judicial Council has adopted CR-301, <i>Request for Warrant</i>, for use by supervising agencies to request warrants for the arrest of supervised persons. <p>The committee, however, will consider revising form CR-301 to apply to probation and mandatory supervision at a future meeting.</p> <ul style="list-style-type: none"> • The committee declines the suggestion regarding conviction information as unnecessary and not always available during the initial processing of a petition revoke.

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Criminal Justice Realignment: Petitions for Revocation of Supervision *(revise form CR-300)*

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5.	Superior Court of Riverside County Daniel Wolfe Managing Attorney	A	Agree with proposal. The proposed modification of form CR-300 should change the title of the action from “IN THE MATTER OF (<i>name of supervised person</i>):” to “PEOPLE v. (<i>name of defendant</i>)”. In cases involving mandatory supervision and probation, the alleged violation is part of the existing case and thus the “IN THE MATTER OF” title is incorrect.	The committee declines this suggestion as unnecessary because the current case title could be used for all types of supervision, including writing “PEOPLE v. (<i>name of defendant</i>)” in the space currently provided.
6.	Superior Court of San Diego County Mike Roddy Executive Officer	A	No additional comments.	No response required.
7.	Trial Court Presiding Judges Advisory Committee / Court Executives Advisory Committee Joint Rules Working Group	AM	The revised form will provide efficiencies particularly if modified as suggested to work as an effective tool for AB 109 workload data collection. <u>Suggested modifications</u> The [Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee] TCPJAC/CEAC Joint Rules Working Group has suggestions to improve the effectiveness in capturing the necessary data on form CR-300 for AB 109 cases. This form was originally designed to provide supervising county agencies with a means to petition the court to revoke, modify or terminate supervision per PC§1203.2. It later was modified to incorporate petitions to revoke or modify supervision by DAPO. The current revision, to incorporate petitions to revoke, modify or terminate mandatory supervision and probation is not inclusive of all petitions the court may	Please see response to Comment 4 above.

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			<p>receive. Specifically, it does not incorporate petitions filed by the jurisdictional prosecutor for misdemeanor probation, or petitions to violate varying forms of diversion and deferred entry of judgment as specified, beginning at PC§1000 et. seq.</p> <p>Suggested modifications to CR-300 are:</p> <ul style="list-style-type: none"> • Remove the instructions box in the header caption; • Use the space formerly occupied by the instructions box and add (a) misdemeanor probation, (b) deferred entry of judgment, (c) post filing diversion per PC§1000; • Consider further expanding use of this form to include applications to the court under PC§3015 (i.e., Reentry); and • Understanding requests for warrants may be made to the court using CR-301, the submitting agency should have the option to request a warrant with the petition to revoke. A check box with language to request an absconder/arrest/bench warrant should be present. The CR-301 is more DAPO exclusive and is likely not representative of how warrants are requested for petitions under 1203.2, 1000 et seq. by supervising county agencies and jurisdictional prosecutors. <p>The following are responses to the proposal's Request for Specific Comments:</p>	

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			<p>Does the proposal appropriately address the stated purpose? <i>The proposal appropriately addresses the needed changes for the form CR-300 but could be improved with the enhancements suggested above.</i></p> <p>Would the proposal provide cost savings? If so please quantify. <i>It is not anticipated that the unmodified form as proposed will have a significant impact on the cost savings or operational requirements for data entry.</i></p> <p>Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <i>The implementation time frame of two months is sufficient, as currently modified, but the recommended enhancements as provided above, could necessitate an extension of time needed to implement the more comprehensive form.</i></p>	