



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 27–28, 2016

Title	Agenda Item Type
Criminal Procedure: Petition and Order for Dismissal—Deferred Entry of Judgment	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms CR-180 and CR-181	January 1, 2017
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	October 14, 2016
	Contact
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Executive Summary

In response to legislation that provides a new statutory basis for dismissals, the Criminal Law Advisory Committee recommends revising the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to add data fields to facilitate dismissals under Penal Code section 1203.43 for defendants who were granted deferred entry of judgment on or after January 1, 1997, who successfully completed a deferred entry of judgment program, and for whom the criminal charge(s) were dismissed under Penal Code section 1000.3, as well as to make related revisions to the format, advisements, and instructions on both forms.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, revise the *Petition for Dismissal* (form CR-180) and the *Order for Dismissal* (form CR-181) to:

1. Add the phrase, “or was granted deferred entry of judgment,” to item 1 on form CR-180 to clarify that defendants granted deferred entry of judgment may use the form to request dismissal relief;

2. Add a check box and related instructions in new item 6 on form CR-180 to facilitate requests for dismissal under Penal Code section 1203.43, including check boxes to indicate whether the petitioner has attached a copy of his or her state summary criminal history information;
3. Add the phrase “or nolo contendere” and a check box for Penal Code section 1203.43 to the request for relief in item 8 on form CR-180, and to the grant or denial of relief in items 3 and 4 on form CR-181;
4. Add check boxes to items 3 and 4 on form CR-181 to clarify whether the court is granting or denying the request for dismissal relief under Penal Code section 1203.43 for all or some of the convictions, and add phrases referencing “pleas for deferred entry of judgment” to both items;
5. Add new item 10 to form CR-181 as an advisement to clarify that the basis for the dismissal under Penal Code section 1203.43 is the invalidity of defendant’s prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea combined with successful completion of a deferred entry of judgment program;
6. Revise the format, advisements, and instructions on both forms by (a) adding a reference to Penal Code section 1203.43 to the caption and footer of both forms, (b) including instructions to “check one” where appropriate, and (c) making other minor format revisions.

The proposed revised forms are attached at pages 5–8.

Previous Council Action

Revisions to both forms were previously approved by the Judicial Council on October 27, 2015, with an effective date of January 1, 2016, in response to criminal justice legislation that provided a new statutory basis for dismissals under Penal Code section 1203.49 for victims of human trafficking. In 2014, revisions to both forms were approved in response to criminal justice realignment legislation for cases under section 1203.41 in which the defendant received a felony county jail sentence under Penal Code section 1170(h)(5).

Rationale for Recommendation

The *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) are used by petitioners and courts to facilitate the dismissal procedures authorized by Penal Code sections 1203.4, 1203.4a, 1203.41, and 1203.49.¹ These are two of the most heavily used optional

¹ All further statutory references are to the Penal Code unless otherwise specified.

criminal law forms and are frequently submitted by unrepresented petitioners. Recent legislation added section 1203.43 to authorize a defendant who was granted deferred entry of judgment on or after January 1, 1997, to petition the court for dismissal relief.² Under section 1203.43, the court is required to permit a petitioner (the defendant in the underlying criminal action) who performed satisfactorily during the period in which deferred entry of judgment was granted, and who had the criminal charge(s) dismissed under section 1000.3, to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty. If the court determines the petitioner is eligible for relief under section 1203.43 based on court records or the petitioner's declaration under penalty of perjury, the statute requires the court to dismiss the complaint or information. The legislation was intended to aid those whose deferred entry of judgment dismissal did not provide the intended relief, particularly in the immigration context.³ In response, the committee recommends adding the new statutory basis for relief to the *Petition* and *Order for Dismissal* forms.

Comments, Alternatives Considered, and Policy Implications

The attached forms circulated for public comment from April 14 to June 15, 2016. A total of 55 comments were received; 3 agreed with the proposed changes, 50 agreed if modified, one did not agree, and one did not indicate a position. All 50 of the commentators who "agreed if modified" provided a nearly identical request to include an explanatory paragraph on form CR-181. A chart with all comments received and the committee's responses is attached at pages 9–19.

Notable comments

Fifty commentators requested that, in addition to the proposed changes, form CR-181 include a paragraph to explain the basis for dismissal under Penal Code section 1203.43 to help ensure that the dismissals are recognized by immigration officials as "for cause." More than 20 commentators added that, "by explaining that the conviction is dismissed for cause, this additional paragraph helps ensure that 1203.43 dismissals are honored by immigration authorities." Other commentators offered similar explanations. In response, the committee recommends adding item 10 to the *Order for Dismissal* (form CR-181) to state as follows:

"The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program."

² Assem. Bill 1352 [Eggman]; Stats. 2015, ch. 646.

³ Penal Code section 1203.43(a) states, "(1) The Legislature finds and declares that the statement in Section 1000.4, that 'successful completion of a deferred entry of judgment program shall not, without the defendant's consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate' constitutes misinformation about the actual consequences of making a plea in the case of some defendants, including all noncitizen defendants, because the disposition of the case may cause adverse consequences, including adverse immigration consequences.

(2) Accordingly, the Legislature finds and declares that based on this misinformation and the potential harm, the defendant's prior plea is invalid."

One commentator suggested that item 6b on the *Petition for Dismissal* (form CR-180), as proposed, be revised to clarify the use of state summary criminal history information in support of a defendant's declaration. The commentator noted that the proposed item inaccurately implied that a defendant is required to provide the information if court records showing the case resolution are no longer available, rather than simply creating a presumption that the declaration is true. In response, the committee recommends revising proposed item 6b to allow the petitioner to indicate whether copies of the state summary criminal history information are attached to the petition.

The Superior Court of California, County of Los Angeles, suggested developing an information sheet to assist self-represented litigants in completing form CR-180. The committee agreed that such an information sheet, although beyond the scope of this proposal, would be useful and recommended that staff consider incorporating development of an information sheet for form CR-180 into a future work plan.

Alternatives considered

The committee considered postponing or declining to recommend any form revisions in light of the fiscal situation faced by courts. The committee, however, decided to recommend the revisions in response to recent legislation. The committee believes that the revisions would impose no significant changes in court practices; rather, the recommended revisions are designed to improve conviction reduction and dismissal procedures by enhancing the information on the forms.

Implementation Requirements, Costs, and Operational Impacts

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

Attachments and Links

1. Judicial Council forms CR-180 and CR-181, at pages 5–8
2. Chart of comments, at pages 9–19

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ DATE OF BIRTH: _____	CASE NUMBER: _____
PETITION FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49)	FOR COURT USE ONLY DATE: _____ TIME: _____ DEPARTMENT: _____

1. On (date): _____, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following offenses or was granted deferred entry of judgment for the following offenses:

Code	Section	Type of offense (<u>felony, misdemeanor, or infraction</u>):	Eligible for reduction to misdemeanor under Penal Code, § 17(b) (<u>yes or no</u>)	Eligible for reduction to infraction under Penal Code, § 17(d)(2) (<u>yes or no</u>)

If additional space is needed for listing offenses, use *Attachment to Judicial Council Form* (form MC-025).

2. ☐ **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**
 Probation was granted on the terms and conditions stated in the docket of the above-entitled court. Petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (*check all that apply*)
- a. ☐ has fulfilled the conditions of probation for the entire period thereof.
- b. ☐ has been discharged from probation prior to the termination of the period thereof.
- c. ☐ should be granted relief in the interests of justice. (*Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.*)
3. ☐ **Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)**
 Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. Petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of any crime, and the petitioner (*check one*)
- a. ☐ has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land.
- b. ☐ should be granted relief in the interests of justice. (*Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.*)

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CASE NUMBER:

4. ☐ **Misdemeanor conviction under Penal Code section 647(b) (Pen. Code, § 1203.49)**

- a. ☐ Petitioner has completed a term of probation for a conviction under Penal Code section 647(b).
- b. ☐ Petitioner should be granted relief because the petitioner can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking. (Please note: You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents to establish that the conviction was the result of your status as a victim of human trafficking.)

5. ☐ **Felony county jail sentence under Penal Code section 1170(h)(5) (Pen. Code, § 1203.41)**

☐ Petitioner is not under supervision under Penal Code section 1170(h)(5)(B); is not serving a sentence for, on probation for, or charged with the commission of any offense; and should be granted relief in the interests of justice, and (check one)

- a. ☐ more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B).
- b. ☐ more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).

(Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

6. ☐ **Deferred entry of judgment (Pen. Code, § 1203.43)**

Petitioner performed satisfactorily during the period in which deferred entry of judgment was granted. The criminal charge(s) were dismissed under Penal Code section 1000.3 on (date): . Furthermore (check one)

- a. ☐ court records are available showing the case resolution.
- b. ☐ petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment. Petitioner (check one)
- ☐ has
- ☐ has not
- attached a copy of his or her state summary criminal history information.

7. Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b) and eligible misdemeanor offenses be reduced to infractions under Penal Code section 17(d)(2).

8. Petitioner requests that he **or** she be permitted to withdraw the plea of guilty **or nolo contendere**, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section (check one)

☐ 1203.4 ☐ 1203.4a ☐ 1203.41 ☐ **1203.43** ☐ 1203.49 of the Penal Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:



(SIGNATURE OF PETITIONER OR ATTORNEY)

(ADDRESS **OF** PETITIONER)

(CITY)

(STATE) (ZIP CODE)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: DATE OF BIRTH:		
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49)		CASE NUMBER:

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (the defendant in the above-entitled criminal action) is eligible for the following requested relief:

- The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and **reduces** (check one)

☐ ALL FELONY CONVICTIONS in the above-entitled action.

☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.

☐ only the following convictions in the above-entitled action (specify charges and date of conviction):
- The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for (check one)

☐ ALL FELONY CONVICTIONS in the above-entitled action.

☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.

☐ only the following convictions in the above-entitled action (specify charges and date of conviction):
- The court **GRANTS** the petition for dismissal under Penal Code ☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.43 ☐ § 1203.49 and it is ordered that the pleas of guilty or **nolo contendere**, or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint **or information** be, and is hereby, dismissed for (check one)

☐ ALL CONVICTIONS OR **PLEAS FOR DEFERRED ENTRY OF JUDGMENT** in the above-entitled action.

☐ only the following convictions **or pleas for deferred entry of judgment** in the above-entitled action (specify charges and date of conviction **or plea for deferred entry of judgment**):
- The court **DENIES** the petition for dismissal under Penal Code ☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.43 ☐ § 1203.49 for (check one)

☐ ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.

☐ only the following convictions **or pleas for deferred entry of judgment** in the above-entitled action (specify charges and date of conviction **or plea for deferred entry of judgment**):

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5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the petitioner was a victim of human trafficking when he or she committed the crime. The court orders *(check one)*
- ☐ the relief described in section 1203.4.
 - ☐ the relief described in section 1203.4, with the following exceptions *(specify)*:
6. If this order is granted under the provisions of Penal Code section 1203.4 or 1203.41,
- Petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission; *and*
 - Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)
7. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that petitioner was a victim of human trafficking when he or she committed the crime, *and* of the relief ordered.
8. If the order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
9. In addition, as required by Penal Code section 299(f), relief under Penal Code section 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).
10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

FOR COURT USE ONLY

Date:

(JUDICIAL OFFICER)

SP16-14

Criminal Procedure: Petition and Order for

Dismissal—Deferred Entry of Judgment (Revise forms CR-180 and CR-181)

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

	Commentator	Position	Comment	Committee Response
1.	Albert De La Isla Principal Administrative Analyst Superior Court of California, Orange County	N/I	<p>Recommend revising item 6 to read “6. Deferred entry of judgment (Pen. Code, § 1203.43)</p> <p><i>The petitioner requests that the original guilty plea be declared constitutionally invalid pursuant to Penal Code 1203.43 (a). The petitioner has performed satisfactorily during the period in which deferred entry of judgment was granted and the criminal charge(s) were dismissed under Penal Code section 1000.3 on: (date):</i></p> <p>Furthermore (check one)</p> <p>a. court records are available showing case resolution.</p> <p>b. <i>the</i> petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment, and petitioner has attached a copy of his or her state summary criminal history information maintained by the Department of Justice.</p> <p>1203.4, 1203.4a, 1203.41, 1203.43, or 1203.49 of the Penal Code.”</p> <p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p>	<p>The committee declines to add the suggested sentence because Penal Code section 1203.43 does not provide a legal basis for such a statement.</p>

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	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none">•Does the proposal appropriately address the stated purpose? Yes, with comments suggested on the form as noted in the attachment.•Are the proposed revisions as effective way to address the legislation that added Penal Code section 1203.43? Yes The advisory committee also seeks comments from courts on the following cost and implementation matters: <ul style="list-style-type: none">•Would the proposal provide cost savings? If so, please quantify. N/A•What would the implementation requirements be for the 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? None – we currently use local forms to support these requests.•Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes•How well would this proposal work in courts of different sizes? Very well.	See above response to comment.
2.	George Abbes Attorney Linda Barreto Attorney Lazaro Salazar Law, Inc Helen Beasley Senior Immigration Attorney	A/M	Please add Paragraph 10 to page 2 of CR 181. This paragraph should state: 10. If the order is granted under the provisions of Penal Code section 1203.43, the plea of guilty or nolo contendere is withdrawn and the charge or charges are dismissed because the information given to the defendant pursuant to Penal Code section 1000.4 "constitutes	The committee accepts the suggestion that form CR-181 provide information about the basis for the dismissal under Penal Code section 1203.43. The committee will add item 10 to form CR-181 to state as follows: “The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant’s prior plea due to misinformation in Penal Code

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Commentator	Position	Comment	Committee Response
Community Legal Services in East Palo Alto		misinformation about the actual consequences of making a plea in the case" and "based on this misinformation and the potential harm, the defendant's prior plea is invalid." (Penal Code section 1203.43).	section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.”
Ann Block Attorney			
Rosina Boulos		Note: By explaining that the conviction is dismissed for cause, this additional paragraph helps ensure that 1203.43 dismissals are honored by immigration authorities.	
Celine Dinh Janelle			
Martin Gauto			
Monica Glicker			
Judith Goodman Attorney Goodman Immigration Law Firm			
Lena Graber Special Projects Attorney Immigrant Legal Resource Center			
Tala Hartsough Attorney Law Office of Tala Harts			
Barbara Horn Partner Horn & Johnson			
Talia Inlander			
Jennifer Lee Koh		Commentator included this introductory statement: As an immigration law professor and	

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	Commentator	Position	Comment	Committee Response
	Professor of Law/Director, Immigration Clinic Western State College of Law Law Office of Robert B. Jobe by Sarah Castello Attorney Leiserowitz Law Office by Naomi Leiserowitz Attorney Christine Lin Hon. Dana Leigh Marks Immigration Judge USDOJ-EOIR Vivek Mittal Law Offices of Vivek Mittal Orange County Alternate Defender by Sierra Nelson Law Clerk Anne E. Peterson Attorney Law Office of Robert B. Jobe Vanessa Sanchez Associate Attorney Wolfsdorf Rosenthal LLP Irina Sarkisyan		director of a law school immigration clinic, I applaud the Council for creating this proposed form for applications granted under PC 1203.43.	

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	Commentator	Position	Comment	Committee Response
	Hill & Piibe, Immigration Attorneys Note: The following commentators provided comments with the indential provision but without the addition of the “Note”. Megan Brewer Law Offices of Stacy Tolchin Hani Bushra Howard R. Davis Gleckman & Sinder by Roger Jay Gleckman Attorney Human Rights Watch by Grace Meng Senior Researcher Immigrant Legal Resource Center by Katherine Brady Senior Staff Attorney Kerosky Purves & Bogue by Liliana Gallelli Angela Krueger Supervisory Attorney Tulare County Public Defender’s Office			

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	Commentator	Position	Comment	Committee Response
	Law Offices of Doreen A. Emenike by Doreen A. Emenike Attorney at Law			
	Law Offices of Gita B Kapur by Gita Kapur Lawyer			
	Law Offices of Kelly H Bu by Honglei Bu Attorney			
	Law Offices of Sonia Figueroa-Lee by Sonia Figueroa Attorney			
	Law Offices of Susy Mancia by Susy Mancia Attorney			
	Christina Lee Partner Becker & Lee LLP			
	Los Angeles County Bar Association Immigration Section by Leslie Reyes			
	Russell Marshak Immigration Attorney Popkin, Samir & Golan		Commentator included this introductory statement: The following language is needed to clarify to the Immigration Authorities that this is not merely rehabilitative relief, but is instead a	

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	Commentator	Position	Comment	Committee Response
	<p>Morales Law Office by Alexander Morales Attorney</p> <p>Scott Mossman Attorney Law Office of Scott Mossman</p> <p>Pangea Legal Services by Marie Vincent Co-Director</p> <p>Keli M Reynolds Attorney at Law Olmos & Reynolds Law Group, LLP</p> <p>Shirley Sher Principal Attorney Wei Sher Law</p> <p>Wayne Spindler Attorney First Stop Immigration Service</p>		<p>determination regarding the legal validity of the prior judgment.</p> <p>Commentator included the following statements: It is ABSOLUTELY IMPERATIVE THAT THE FORM CONTAIN THE PRECISE LANGUAGE THAT THIS IS A WITHDRAWAL OTHER THAN PURELY IMMIGRATION CONSEQUENCES... This ensures the Legislative intent is followed and ameliorative relief to the intending undocumented individual or documented individual to save her residency card is fulfilled.</p>	

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	Commentator	Position	Comment	Committee Response
	<p>Robert Swain Attorney</p> <p>Norton Tooby Law Office of Norton Tooby</p> <p>Isabel Wagner Attorney at Law Immigration Law Center</p> <p>Eric Welsh Reeves Miller Zhang & Diza, APLC</p>		<p>Thank you, God bless this legislation and its proponents. The same should also apply for expungements under PC 1203.40 by amending that form to include similar language.</p> <p>Commentator included this statement: This amendment is requested because without some more specificity about the withdrawal of the plea, there is a substantial risk that immigration authorities will not recognize the expungement.</p> <p>Commentator included this statement: By explaining that the conviction is dismissed for cause, this additional paragraph helps avoid the prejudice to the defendant's immigration status caused by the misinformation.</p>	
3.	Orange County Bar Association by Todd G. Friedland President	N	The proposed amendments to the Petition for Dismissal (form CR-180) and Order for Dismissal (form CR-181) <u>do not</u> appropriately address the stated purpose of facilitating dismissal procedures authorized by Penal Code section 1203.43 and the proposed revisions do not effectively address the relief contemplated by the statute.	<p>The committee accepts the commentator's suggestion, and will separate the elements currently listed in proposed item 6b. on form CR-181 to state:</p> <ul style="list-style-type: none">• Petitioner declares under penalty of perjury that the charges were dismissed after he or she completed the requirements for deferred entry of judgment. Petitioner (<i>check one</i>)

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	Commentator	Position	Comment	Committee Response
			The petition (form CR-180) requires the petitioner to aver that either court records are available showing the case resolution or that charges were dismissed after he or she completed the requirements for deferred entry of judgment if the court records are no longer available. If the latter box is checked, the proposed revised form of petition also requires the petitioner to attach a copy of his or her state summary criminal history information maintained by the Department of Justice. This requirement is inconsistent with the statute. Penal Code section 1203.43 does not require a petitioner to attach his or her state summary criminal history information. Instead, it simply creates a presumption that the declaration is true if the petitioner does so.	<input type="checkbox"/> has <input type="checkbox"/> has not attached a copy of his or her state summary criminal history information.
4.	State Bar of California , Standing Committee on the Delivery of Legal Services by Phong S. Wong Chair	A	Does the proposal appropriately address the stated purpose? Yes, it seeks to comply with recent legislation. The addition of the words “or was granted deferred entry of judgment for the following offenses:” on CR-180 is most helpful and adds clarity for those petitioners who completed programs or other court orders to satisfy the terms of probation, etc., and who are often times unsure if there is a Judicial Council form for deferred entry of judgments. The check boxes and the addition of 1203.43 in the caption and footer of both CR-180 and CR-181, and the incorporation of sections 6, 7 and 8 on form CR-180 are very helpful for clients. The	<ul style="list-style-type: none">• No response required.

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

	Commentator	Position	Comment	Committee Response
			<p>proposal is also effective in dealing with cases that are reduced.</p> <p>Are the proposed revisions an effective way to address the legislation that added Penal Code section 1203.43?</p> <p>Yes, the proposed revisions add clarity to the forms and provide for a process of proof by the petitioner regarding request for a dismissal if the court records no longer exists. The proposed petition and order comply with 1203.43 in that there are check boxes and areas of instructions that specifically relate to Penal Code section 1203.43.</p> <p>Additional Comments</p> <p>The proposal would assist those who are low to moderate-income with requesting a dismissal(s) of a Deferred Entry of Judgment with less confusion and more ease. Requests for dismissals under section 1000.3 are common and are submitted frequently by persons who are not represented. This proposal would be an asset to those seeking to submit the form(s) on his or her own and would also comply with the recently enacted section 1203.43.</p>	<ul style="list-style-type: none">• No response required.• No response required.
5.	Superior Court of California, County of Los Angeles	A	This proposal adds dismissals under deferred entry of judgement to the standard expungement form. A worksheet on how to complete the	The suggestion to create an information sheet that provides directions for self-represented litigants in completing form CR-180 is beyond the scope of

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Criminal Procedure: Petition and Order for

Dismissal—Deferred Entry of Judgment (Revise forms CR-180 and CR-181)

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

	Commentator	Position	Comment	Committee Response
			petition would be helpful for self-represented litigants.	this proposal. The committee agrees that such an information sheet would be useful and has recommended that staff consider incorporating development of an information sheet for form CR-180 into a future work plan.
6.	Superior Court of California, County of San Diego by Mike Roddy Chief Executive Officer	A		No specific comment.