



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-053

For business meeting on October 1, 2021

Title

Rules and Forms: Incarcerated Individual
Hand Crew Conviction Relief

Agenda Item Type

Action Required

Effective Date

January 1, 2022

Rules, Forms, Standards, or Statutes Affected

Approve forms CR-430, CR-430-INFO,
CR-431, and CR-432

Date of Report

August 31, 2021

Recommended by

Criminal Law Advisory Committee
Hon. Brian M. Hoffstadt, Chair

Contact

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Executive Summary

The Criminal Law Advisory Committee recommends four new optional forms to implement the provisions of Assembly Bill 2147 (Stats. 2020, ch. 60), which authorizes conviction relief for a petitioner who successfully participated as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation, and has been released from custody.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022, approve:

1. *Petition for Dismissal—Incarcerated Individual Hand Crew* (form CR-430), for use by individuals who have been criminally convicted and are no longer in custody to petition the court to (1) withdraw the plea of guilty or nolo contendere or set aside the verdict of guilty, and (2) dismiss the case in the interests of justice, based on the petitioner's successful participation as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation (CDCR).

2. *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew* (form CR-430-INFO), for use by individuals seeking directions for filling out the petition form and additional information regarding the petition process.
3. *Court Cover Letter and Agency Certification—Incarcerated Individual Hand Crew* (form CR-431), for use by courts to (1) provide a copy of the petition to the appropriate county authority or the CDCR, and (2) request certification of the petitioner’s successful participation as an incarcerated individual hand crew member in a fire camp program.
4. *Order on Petition—Incarcerated Individual Hand Crew* (form CR-432), for use by courts to grant or deny the petition in the interests of justice, based on the petitioner’s successful participation as an incarcerated individual hand crew member in a fire camp program operated by a county or the CDCR.

The proposed forms are attached at pages 7–15.

Relevant Previous Council Action

The council has taken no previous action regarding conviction relief under Assembly Bill 2147.

Analysis/Rationale

Effective January 1, 2021, Assembly Bill 2147 (Stats. 2020, ch. 60) added Penal Code section 1203.4b,¹ authorizing conviction relief for a petitioner who successfully participated as an incarcerated individual hand crew member in the California Conservation Camp program—a fire camp program operated by the CDCR—or as a member of a county incarcerated individual hand crew. Under section 1203.4b, a court may, in its discretion and in the interests of justice, permit a qualifying petitioner to withdraw a guilty or nolo contendere plea, or the court may set aside a verdict of guilt, and in either case, the court may dismiss the accusations or information against the petitioner.

For the court to order the requested relief, section 1203.4b(b)(2) requires the CDCR secretary or the appropriate county authority to certify to the court that the petitioner successfully participated in the incarcerated individual conservation camp program or as a member of a county incarcerated individual hand crew.² Additionally, the petitioner must have been released from

¹ All subsequent references are to the Penal Code.

² Incarcerated individuals who are state prison inmates may participate in fire camps operated under the CDCR’s conservation camp program. Currently, the CDCR has agreements with at least 10 counties (Alpine, Kings, Los Angeles, Orange, Riverside, San Diego, San Joaquin, Santa Cruz, Shasta, and Sierra) for county jail inmates to also participate in CDCR fire camps. (Los Angeles operates fire camps in conjunction with the CDCR.) These county jail inmates are placed in CDCR custody and issued CDCR numbers for the sole purpose of participation in fire camps. Thus, the vast majority of county jail inmates who participate in a fire camp are in a CDCR-operated camp. Currently, only one county, San Bernardino, operates its own fire camp through a program of the San Bernardino County Sheriff’s Department in conjunction with the San Bernardino County Fire Department.

custody. Section 1203.4b(a)(3) defines successful participation to mean that the incarcerated individual adequately performed their duties without any conduct that warranted removal from the program.

If the court grants the requested relief, under section 1203.4b, the petitioner is released from all penalties and disabilities resulting from the offense, with specified exceptions. The relief applies to all eligible convictions for which the petitioner served a sentence at the time the petitioner successfully participated in a qualifying program. (Section 1203.4b(a)(1) specifies the offenses ineligible for relief.)

Based on communications from courts, defense counsel, and advocacy organizations, the committee determined that optional forms would facilitate the above-described process of providing conviction relief to eligible petitioners under section 1203.4b.

Policy implications

This proposal furthers the council's policy of ensuring access to justice for all litigants. Without the availability of forms, pro se petitioners, in particular, may encounter difficulties in requesting conviction relief under section 1203.4b. Additionally, forms would facilitate coordination between the courts and the CDCR or the appropriate county authority, to the extent such is required under the statute.

Comments

This proposal circulated for comment from April 15 to May 27, 2021. Ten comments were received from a range of stakeholders: courts (Orange and San Diego), the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, a public defender's office (Los Angeles), advocacy organizations (California Occupational Licensing Coalition, Legal Services of Northern California, Neighborhood Legal Services of Los Angeles County), a bar association (Orange County), and members of the public. Three commenters agreed with the proposal; four agreed if modified; and three did not indicate a position but appeared to agree if modified. The bulk of the comments consisted of suggestions for statutory adherence, administrative ease, user-friendliness, and clarity. As described in greater detail below, the committee incorporated some modifications to the proposed forms based on a number of the comments. A chart with all comments received and the committee's responses is attached at pages 16–38.

Eligibility for relief

One commenter suggested changing item 2 in the petition (form CR-430) to clarify that a court, in determining a petitioner's eligibility for relief, should only look to the convictions that are the subject of the petition (i.e., convictions that resulted in a term of incarceration during which the petitioner participated as an individual hand crew member, and which the petitioner is asking the court to dismiss), rather than to the petitioner's entire criminal history. The committee determined that, as a matter of statutory interpretation, neither the plain text of the statute nor the legislative history provide a definitive answer as to the legislative intent. The committee

concluded that the language in the circulated form was appropriate and declined to make the suggested change.

Space for interest of justice arguments

Three commenters suggested adding a space on the petition (form CR-430) to allow a petitioner to make an interest of justice argument, and/or the option to include an attached declaration. The committee agreed with this suggestion and incorporated it into the proposed form.

Multiple cases on a single form

One commenter suggested modifying the forms to allow a petitioner to accommodate multiple case numbers on a single form. The committee declined to incorporate the suggestion, given that allowing multiple cases on a single form could result in increased administrative confusion—for example, if a petitioner requested relief for convictions originating in different courts.

Other forms of conviction relief

One commenter suggested modifying the petition (form CR-430) to allow a petitioner to simultaneously request reduction relief under section 17(b) and (d).³ The committee declined to incorporate the suggestion, as this would be a substantive change to the proposal that would necessitate an additional public comment period and thereby delay consideration for approval. The committee may consider this suggestion during a future rule and form cycle.

Early termination of supervision provisions

Four commenters suggested modifying item 2 in the information sheet (form CR-430-INFO) to clarify the information provided regarding the early termination of supervision provisions of section 1203.4b. Specifically, three commenters suggested that, contrary to the information in the circulated form, nothing in section 1203.4b prevents a court from granting relief even if a petitioner has violated the terms or conditions of supervision. A fourth commenter stated that the information provided in item 2 was confusing. The committee agreed that some of the information in item 2 was confusing and possibly not in conformity with the text of section 1203.4b, and after revisiting the statute, the committee determined that section 1203.4b does not directly address whether early termination of supervision may be granted when there has been a violation of the terms or conditions of supervision. The committee concluded that the best way to address the aforementioned comments would be to modify the language in item 2 to more closely match the statutory language.

Relatedly, one commenter suggested adding a checkbox to the court order (form CR-432) that would allow a court to grant early termination of supervision in its discretion even when there has been a violation of the terms or conditions of supervision. The committee declined to add the suggested checkbox, given that section 1203.4b does not directly address whether early

³ Section 17(b) authorizes a court to, under certain circumstances, reduce a felony to a misdemeanor. Similarly, section 17(d) authorizes a court to, under certain circumstances, reduce a misdemeanor to an infraction.

termination of supervision may be granted when there has been a violation of the terms or conditions of supervision.

Court's discretion to grant or deny relief

One commenter suggested deleting the option to dismiss only certain convictions within an eligible case on the court order (form CR-432), as section 1203.4b(b)(4) arguably requires a court to grant relief for all convictions within an eligible case. The committee declined to incorporate the suggestion, as it does not read subdivision (b)(4) of section 1203.4b as limiting a court's ability to grant relief in its discretion and in the interests of justice under subdivisions (b)(2) and (c)(1), and accordingly, a court could conceivably exercise its discretion by granting relief for only certain convictions within a case.

Alternatives considered

The number of formerly incarcerated individuals who have participated as a hand crew member in a CDCR or county-operated fire camp program appears to be relatively low. The committee thus considered whether it was necessary for the Judicial Council to approve or adopt a new set of forms for this type of conviction relief. As noted, the committee determined that forms could facilitate the process of providing relief to eligible petitioners, given the apparent high level of interest by pro se petitioners and because relief under the statute requires coordination between the courts and the CDCR or the appropriate county authority.

The committee considered whether any existing forms, such as *Petition for Dismissal* (*Pen. Code*, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49) (form CR-180) and *Order for Relief* (*Pen. Code*, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49) (form CR-181) could be amended to provide for relief under section 1203.4b. The committee determined that new forms would be preferable because the requirements for petitioning for relief under section 1203.4b are distinct from other forms of relief, and adding section 1203.4b relief to the existing forms would make them overlong and cumbersome.

The committee discussed whether the forms should be mandatory or optional. Because some courts prefer to use optional forms as models to be adapted to their specific court processes, and because some petitioners (especially those with counsel) may prefer to use a more extensive format for petitioning the court, the committee determined that optional forms would be preferable.

The committee considered whether the order (form CR-432) should have the court state the reasons why, in the case of a denial of relief, granting relief to the petitioner would not serve the interests of justice. The committee decided that the order should include this information, as this would help instill confidence in judicial decision-making, benefit a petitioner filing a subsequent petition for the same relief, and provide the opportunity for effective appellate review.

Fiscal and Operational Impacts

As forms CR-430, CR-430-INFO, CR-431 and CR-432 would be optional, expected costs are limited to training, possible case management system updates, and the production of new forms.

Two superior courts submitted comments regarding this proposal's operational impacts on courts. One court indicated that staff training would be minimal, and case management system updates were not anticipated. The other court indicated that some courts have already created local forms for petitioning for relief under section 1203.4b, and that standardizing the forms will promote consistency across the state. No other implementation requirements or major operational impacts are expected.

Attachments and Links

1. Proposed forms CR-430, CR-430-INFO, CR-431, and CR-432, at pages 7–15
2. Chart of comments, at pages 16–38
3. Link A: Assem. Bill 2147 (Stats. 2020, ch. 60),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2147
4. Link B: Pen. Code, § 1203.4b,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1203.4b&lawCode=PEN

Petition for Dismissal—Incarcerated Individual Hand Crew **(Pen. Code, § 1203.4b)**

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council

Before using this form, read *Information on Filing a Petition for Dismissal—Incarcerated Individual Hand Crew (Pen. Code, § 1203.4b)* (form CR-430-INFO), available at www.courts.ca.gov/forms.

A copy of this petition must be served on the prosecuting attorney and a proof of service must be filed with the court (you may use *Proof of Service* (form CR-106), available at www.courts.ca.gov/forms).

PEOPLE OF THE STATE OF CALIFORNIA
 v.
 DEFENDANT:

Fill in court name and street address:

Superior Court of California, County of

Case Number:

For Court use only:

Date:

Time:

Department:

1 Petitioner's Information

a. Name: _____

_____ *First* _____ *Middle* _____ *Last*

Date of birth: _____ (mm/dd/yyyy)

Address: _____

_____ *Street*

_____ *City* _____ *State* _____ *Zip*

Telephone (optional): _____

Email (optional): _____

Local Identifying Number (if known): _____

CDCR No. (while in fire camp, if known): _____

Name of fire camp (if known): _____

Approximate dates in fire camp (if known): _____ to _____
 (month/year) (month/year)

b. Your attorney, if you have one (specify name, address, telephone number, and State Bar number below):

Name: _____

_____ *Street* _____ *City* _____ *State* _____ *Zip*

Telephone: _____ Email: _____

State Bar No. _____

2 Eligibility for relief under Penal Code section 1203.4b

- a. Petitioner was not convicted of any of the following offenses: murder; kidnapping; rape (as defined in Penal Code section 261(a)(2), (a)(6), or Penal Code section 262(a)(1), (a)(4)); lewd acts on a child under 14 years of age (as defined in Penal Code section 288); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration pursuant to Penal Code section 290; escape from a secure perimeter within the previous 10 years; or arson.



- b. While serving a sentence in this case, petitioner successfully participated as a member of a fire camp incarcerated individual hand crew in (*check one*):
- ☐ the California Conservation Camp program (operated by the California Department of Corrections and Rehabilitation)
- ☐ a county incarcerated individual hand crew program (*name of county*): _____
- c. Petitioner adequately performed the hand crew duties and did not engage in any conduct that warranted removal from the program.
- d. Petitioner has been released from custody and has no pending criminal charges.
- e. In this case number: _____, petitioner is currently (*check one*):
- ☐ on probation ☐ on parole ☐ on supervised release ☐ not on supervision
- f. ☐ Petitioner requests early termination of: ☐ probation ☐ parole ☐ supervised release
- g. Petitioner requests permission 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 that the court dismiss this action in its discretion and in the interests of justice under Penal Code section 1203.4b.
- (Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below or by attaching a letter or other relevant documents. If you need more space for your writing, you can use Attached Declaration (form MC-031) and attach it to this petition.)*

I declare that the information provided is true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: _____

Signature: _____
(*Petitioner or attorney*)

Printed Name: _____
(*Petitioner or attorney*)

Penal Code § 1203.4b allows eligible former inmates to ask the court to dismiss a conviction and take other actions that can improve your criminal record (“record clearing”).

Read this information carefully to learn whether you may be eligible for § 1203.4b relief, and how to complete *Petition for Dismissal—Incarcerated Individual Hand Crew* (form CR-430) to request relief. (Form CR-430 is available at www.courts.ca.gov/forms.)

① Who is eligible to apply for relief under Penal Code § 1203.4b?

You must meet ALL of these requirements to be eligible to apply (petition) for relief under Penal Code § 1203.4b:

- a. You were incarcerated in state prison or county jail.
- b. While in state prison or in county jail, you successfully participated as a hand crew member (“grade eligible”) in a California Conservation Camp program operated by the California Department of Corrections and Rehabilitation (CDCR);
- OR**
- While in county jail, you successfully participated in an incarcerated individual fire camp hand crew program operated by a county agency (for example, the sheriff’s department).
- c. You have been released from custody (i.e., you are not in state prison or county jail).
- d. You are not currently charged with committing any offense.

NOTE: You are NOT eligible for Penal Code § 1203.4b relief if your conviction was for any of these offenses: murder; kidnapping; rape (as defined in Penal Code §§ 261(a)(2), (6) or 262(a)(1), (4)); a violation of Penal Code § 288 (specified sex offenses); any felony punishable by death or imprisonment in the state prison for life; any sex offense requiring registration under Penal Code § 290; escape from a secure perimeter within the previous 10 years; or arson.

② I’m still on probation, parole, or supervised release. Can I apply for § 1203.4b relief now?

- **Yes**, you can still petition for a § 1203.4b dismissal even if you are on a term of probation, parole, or supervised release. The law says that you are *not* required to complete your term of supervision before you can ask the court to dismiss your conviction.
- If you are still on a term of supervision and have not violated any terms or conditions of your supervision, and the court grants your petition for a § 1203.4b dismissal, the court will also order early termination of supervision.

③ What information do I need to include on my petition?

Form CR-430 is the form for requesting § 1203.4b relief. It is available at www.courts.ca.gov/forms. You do not have to use form CR-430 for your petition, but it helps organize the information for the court.

You will need to file a separate petition for each case. You will need to list on your petition:

- The case number; and
- Your local identifying number (if any, and if known).

It is helpful to provide details about your participation in a CDCR fire camp program:

- The CDCR number you had while participating in fire camp;
- The name of the fire camp; and
- The approximate dates that you were in fire camp.

For example: CDCR No. TK12345;

Eel River Camp, August – November, 2020

You are *not* required by law to provide this information in your petition. It can help speed up the court’s decision on your request by making it easier for CDCR to locate and confirm your participation in fire camp and report back to the court.

Tip: If you were a county jail inmate and participated in a fire camp, it is *very likely* the fire camp was operated by CDCR. You would have been given a CDCR number during your time in fire camp.

You may also explain why granting a dismissal would be in the interests of justice. You can write in the allotted space on the form, or you can use *Attached Declaration* (form MC-031), available at www.courts.ca.gov/forms.

4 Where and how do I file my § 1203.4b petition with the court?

- a. **You must file your petition with the court. File in the county where you were sentenced for the conviction you want the court to dismiss.**

First, check with the court clerk or check the court's website to see whether there are any local rules about filing and service of the petition, as well as how to obtain proof of filing.

- In many counties, you must serve the original § 1203.4b petition with the court, have the court file-stamp one copy, and then you must serve the file-stamped copy of the petition on the prosecuting attorney.
 - If you “file first,” as described in b. and c. below, the court has a chance to add a hearing date to the petition before you serve it.
 - Some courts require you to first serve *a copy* of the § 1203.4b petition on the prosecuting attorney and *then* file the original petition with the court, together with a completed and signed proof of service. (See ⑤ and ⑥ for information on service and proof of service.)
- b. Fill out the petition form, CR-430, and *make at least 2 copies*. You will use one copy to notify the prosecuting attorney. Be sure to keep the other copy for your own records.
- c. File the original § 1203.4b petition with the court by:
- taking the original petition and a copy to the court in person and handing it to the court clerk; *or*
 - mailing the petition and a copy to the court; *or*
 - filing the petition electronically, if the local court rules permit this type of filing.

- d. When the court files the original petition, ask the court clerk to file-stamp the copy of the petition and return it to you. *This is an important step because, in many counties, the file-stamped copy must be served on the prosecuting attorney.* If you file the petition by mail, include the copy for the court clerk to file-stamp and then return to you. Include a self-addressed, stamped envelope for the clerk to use to mail the file-stamped copy back to you.

5 How do I “serve” a copy of my § 1203.4b petition on the prosecuting attorney?

- a. “Serving” a petition means delivering a copy of the petition to the prosecuting attorney.
- b. You must serve a copy of your § 1203.4b petition on the prosecuting attorney in the county where you filed your petition with the court.
- c. You can serve the petition by:
- **Personal service:** You *or another person over age 18* go in person to hand-deliver a copy of the petition to the prosecuting attorney's office during business hours by handing it to an employee. Be sure to get the name of the employee for your proof of service.
 - **Service by mail:** Mail a copy of the petition to the prosecuting attorney's office. You may mail the petition by first-class mail or by certified mail with a return receipt requested.
 - **Electronic service:** Contact the prosecuting attorney's office to see if they accept electronic service. If they do, the court may require proof of their consent to electronic service. You can use *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-CV), available at www.courts.ca.gov/forms.

6 How do I prove that I served my § 1203.4b petition on the prosecuting attorney?

- a. It is very important that you properly serve your § 1203.4b petition and then file proof with the court. This “proof of service” tells the court that you gave the prosecuting attorney the required notice of your § 1203.4b petition.
- b. You will need to confirm that you served the petition by filing a proof of service form that describes who, when, where, and how you served your § 1203.4b petition. You can use *Proof of Service—Criminal Record Clearing* (form CR-106) for this purpose.
- c. Fill out form CR-106. (Follow the directions on form CR-106-INFO. Both forms are available at www.courts.ca.gov/forms). Form CR-106 has spaces for you to write how you served the prosecuting attorney with your § 1203.4b petition. If you had someone else help you serve the petition on the prosecuting attorney, that person will have to fill out the proof of service form.
- d. After filling out the proof of service (form CR-106), make a copy for you to keep.
- e. You must file the original proof of service with the court to prove that you gave the prosecuting attorney the required notice of your § 1203.4b petition. You can file the proof of service form the same way you filed the petition.

7 What happens next?

- a. **The court can consider your petition 15 days after you serve the prosecuting attorney with your petition. The prosecuting attorney can object to your petition at any time before the court grants or denies the petition.**
- b. If the prosecuting attorney does object, you will receive a copy of the objection in the mail and the court will schedule a hearing. (See 10 for more information about the hearing.)
- c. Before the court can grant your § 1203.4b petition, the court must get certification of your participation in fire camp from CDCR or the appropriate county authority.

8 What is “certification” by CDCR or the appropriate county authority?

- a. In order for the court to decide whether to grant your § 1203.4b petition, the court must have “certification” from CDCR or the county authority that:
 - you successfully participated in fire camp as a hand crew member; AND
 - you participated in fire camp during the time you were incarcerated for the conviction you are asking the court to dismiss.
- b. After you file your § 1203.4b petition, the court will contact CDCR or the appropriate county authority and ask for a written statement that confirms (“certifies”) your successful participation in fire camp.
- c. “Successful participation” in fire camp means that you adequately performed your hand crew duties and did not have any violations that could have led to your removal from fire camp.

9 When will the court make a decision?

- a. The court will not make a decision until it hears from CDCR or the appropriate county agency certifying participation.
- b. The law does not set a time frame, but the court may ask CDCR or the appropriate county authority to respond to a request for certification by a certain date.
- c. After CDCR or the appropriate county authority certifies whether your participation in fire camp was successful, the court likely will contact you and the prosecuting attorney. But the law does not require the court to contact you, so you may want to check with the court to confirm that the certification has been received.

10 Will I have to attend a hearing?

- a. The law does not *require* the court to hold a hearing in order to make a decision on your § 1203.4b petition. The court can make a decision on your petition without holding a hearing. But the law allows the court to hold a hearing if it chooses to do so.
- b. The law allows the prosecuting attorney to request a hearing and to ask the court to deny your § 1203.4b petition.
- c. If the court schedules a hearing, you will be notified of the hearing date and time. You have a right to attend the hearing and to explain why your § 1203.4b petition should be granted and your conviction dismissed.
- d. *Note:* Even if the prosecuting attorney does not object to your § 1203.4b petition, the court may ask the prosecuting attorney to tell the court whether there is anything it should consider when deciding whether to grant your petition.

11 How will the court make its decision?

- a. If you meet all of the eligibility factors, and the court receives certification of your successful participation in fire camp, the court may grant your § 1203.4b petition *if it is in the interests of justice*.
- b. If the court determines that it's not in the interests of justice to grant relief, the court can deny your petition even if you meet all the eligibility requirements. You may resubmit your petition in the future if you think the court's decision was incorrect.
- c. Once the court makes a decision on your § 1203.4b petition, it will issue an order (likely on form CR-432) that states whether the court granted or denied your petition. If the court grants your petition, the order will state which convictions have been dismissed and whether supervision has been terminated. The court will also report this change in your record to the Department of Justice so that your statewide criminal history summary can be updated.

12 If the court grants relief, what happens to my conviction?

- a. If the court grants relief and dismisses the conviction, you will be released from most of the penalties and restrictions that are connected to the conviction. The law keeps certain penalties in place.
- b. A dismissal will NOT:
 - Reinstate your right to possess firearms.
 - Prevent suspension of your driver's license in some cases.
 - Allow you to omit the conviction from applications for the California Commission on Teacher Credentialing, a position as a peace officer, public officer, or for contracting with the California State Lottery Commission.
 - Permit you to hold public office if the law prohibits people from holding public office as a result of that conviction.
 - Seal or remove the court file from public inspection.
 - Prevent the conviction from being used as a "prior" in the future.
 - Remove from your record the fact that an arrest occurred.

**Court Cover Letter and Agency
Certification—Incarcerated Individual
Hand Crew (Pen. Code, § 1203.4b)**

Clerk stamps date here when form is filed.

DRAFT
**Not approved by
the Judicial Council**☐ **Secretary, California Department of Corrections and Rehabilitation**c/o Camp Liaison Captain
1515 S Street, 330 N-113
Sacramento, California 95811☐ **Appropriate county authority (name):** _____Address: _____

_____**Attached is a copy of a petition for relief under Penal Code section 1203.4b
filed by:**Name: _____
First Middle Last

Date of birth: _____ (mm/dd/yyyy)

CDCR No. (while in fire camp, if known): _____

Name of fire camp, if known: _____

Approximate dates in fire camp: _____ to _____
(month/year) (month/year)**Please certify, by (date):** _____, whether the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, or successfully participated as a member of a county incarcerated individual hand crew, and has been released from custody.

Date: _____

Court Clerk: _____ Court Contact Information (optional): _____

Superior Court of California, County of**Case Number:****Agency Certification****NOTE TO CERTIFYING AGENCY:** Please fill out this certification and mail this form to the court at the address above.☐ The Secretary of the California Department of Corrections and Rehabilitation or the appropriate county authority certifies that, on case number: _____ (check one):☐ The petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, or as a member of a county incarcerated individual hand crew, and has been released from custody. Dates of participation: _____ to _____
(month/year) (month/year)☐ The petitioner participated but was not successful as a hand crew member in the CDCR incarcerated individual conservation camp program, or as a member of a county incarcerated individual hand crew.☐ The petitioner did not participate as a hand crew member in the CDCR incarcerated individual conservation camp program, or as a member of a county incarcerated individual hand crew.

Date: _____

Signature of Agency Representative

Agency: _____

Printed Name: _____

Order on Petition—Incarcerated Individual Hand Crew (Pen. Code, § 1203.4b)

Clerk stamps date here when form is filed.

DRAFT
Not approved by
the Judicial Council

① Name: _____
First Middle Last

Mailing address: _____
Street

City State Zip

CDCR No. (if known): _____

Name of fire camp (if known): _____

Superior Court of California, County of

Case Number:

For Court use only:

Date:

Time:

Department:

② The court finds:

- ☐ The Secretary of the California Department of Corrections and Rehabilitation has certified to the court that the petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program.
- ☐ The appropriate county authority has certified to the court that the petitioner successfully participated as a member of a county incarcerated individual hand crew.
- ☐ The petitioner has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief under Penal Code section 1203.4b. The court orders early termination of (check one): ☐ probation ☐ parole ☐ supervised release.
- ☐ It is in the interests of justice to dismiss the accusations or information against the petitioner and release the petitioner from all penalties and disabilities resulting from the offense of which the petitioner has been convicted, except as provided in Vehicle Code Section 13555.

③ The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code section 1203.4b (check one):

- ☐ for all convictions in case number: _____ or ☐ only the following convictions in case number: _____ (specify charges and date of conviction): _____

It is ordered that the petitioner's plea of guilty or nolo contendere be withdrawn and a plea of not guilty be entered, or the verdict of guilt be set aside. The court dismisses the accusations or information against the petitioner.

Petitioner is released from all penalties and disabilities resulting from the convictions in this case for which the court is granting relief, except as follows:

- Suspension of petitioner's driver's license except as provided in Vehicle Code section 13555.
- In any subsequent prosecution, this conviction may have the same effect as if the accusation or information had not been dismissed.
- Petitioner must still disclose the conviction in response to any direct question in any questionnaire or application for licensure by the California Commission on Teacher Credentialing, for a position as a peace officer, for public office, or for contracting with the California State Lottery Commission.
- Petitioner may still be prohibited from owning, possessing, or having in petitioner's custody or control any firearm.
- Petitioner may still be prohibited from holding public office as a result of the dismissed conviction.

- ④ ☐ The court **DENIES** the petition because petitioner's conviction is for an offense that is ineligible for relief under Penal Code section 1203.4b(a)(1)(A)–(H).
- ☐ The court **DENIES** the petition without prejudice (*check all that apply*):
- a. ☐ Petitioner is in custody.
 - b. ☐ Petitioner is currently charged with the commission of any other offense.
 - c. ☐ The Secretary of the Department of Corrections and Rehabilitation did not certify to the court that petitioner successfully participated as a hand crew member in the CDCR incarcerated individual conservation camp program, or the appropriate county authority did not certify to the court that the petitioner successfully participated in the county incarcerated individual hand crew program.
 - d. ☐ Petitioner was not serving a sentence for this conviction at the time of participation in fire camp.
 - e. ☐ The court finds that granting relief would not serve the interests of justice because:
 - f. ☐ Other:

Date: _____

Signature of Judicial Officer

SPR21-07

Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
1.	California Occupational Licensing Coalition by Zachary Gautier-Klos Staff Attorney, Root & Rebound	NI	<p>This letter is in response to the invitation to comment on court forms within SPR21-07. We greatly appreciate the Council’s efforts to make court processes more accessible to unrepresented people through the development of standardized court forms.</p> <p>I am writing on behalf of the California Occupational Licensing Coalition. Our coalition of advocates provide legal information, services, and support to formerly incarcerated and systemimpacted people across California. We have supported tens of thousands of people with record cleaning. From our on-the-ground legal experience in these areas of law, we have worked on comprehensive policy reform related to occupational licensing for people with conviction histories -- to work toward a more just and safe society. We supported the development and passage of AB 2138, a landmark shift in access to state regulated employment for system impacted people. And continue to work to ensure that people are not permanently denied living wage jobs for which they are qualified and can safely work.</p> <p>We have three significant concerns with the draft forms. Our concerns are especially strong in the instances where people may engage with these forms without the support of an attorney or expert advocate.</p> <p>1. The CR-430 should have a space for a declaration and mention the legal standard, “interest of justice”</p> <p>First, the draft CR-430 fails to state anywhere that relief requires a discretionary determination by the court and that relief is only granted “in the interest of justice.” Pen. Code 1203.4b(c)(1). This is unlike the CR-180, the other court form used for Penal Code 1203.4 et seq; its absence from the CR-430 but presence on the CR-180 might lead a pro per petitioner to believe that the relief under 1203.4b is mandatory. The interest of justice standard, and court</p>	<p>The committee agrees with this suggestion, and has added a space on form CR-430 to allow a petitioner to make an interest of justice argument and/or to include an attached declaration.</p>

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SPR21-07

Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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			<p>discretion, is only mentioned in numbered item 11 on the fourth page of the CR-430-INFO sheet, nearly hidden.</p> <p>Burying this vital information deep in the INFO document disadvantages petitioners because it provides them little to no opportunity to realize that they must make an interest of justice argument to the court. Further, there is no apparent opportunity to make such an interest of justice argument on the written record because there is no such space on form CR-430. A court cannot properly consider the petitioner's argument in favor of relief based on the interest of justice standard with the information available in the draft CR-430.</p> <p>We suggest that the Council (1) makes clear in the CR-430 that if someone is eligible for relief, relief is still at the discretion of the court and based on the interest of justice standard, and (2) provide an opportunity to make an interest of justice argument, perhaps through identifying the option to attach an MC-31 declaration or creating a space to explain within the CR-430, similar to the CR-180.</p> <p>2. The CR-432 should not include an option to dismiss only certain convictions within an eligible case</p> <p>Second, the draft CR-432 Order, in numbered section three, includes the option for the court to grant the relief for only specific convictions within an eligible case. We believe this is a misinterpretation of Pen. Code 1203.4b(b)(4). The clause, "subject to relief" should not be read as permissive, allowing the court discretion on which specific convictions to apply relief. Rather it should be read to be inclusive of all convictions for which the petitioner is eligible for relief. The purpose of the legislation is to reduce the barriers of convictions based on the work hand crew members did in conservation camps. Allowing a court to provide relief for only some</p>	<p>The committee discussed this suggestion and declines to incorporate it. The committee does not read subdivision (b)(4) of Penal Code section 1203.4b as limiting a court's ability to grant relief in its discretion and in the interests of justice under subdivisions (b)(2) and (c)(1), and accordingly, a court could conceivably exercise its discretion by granting relief for only certain convictions within a case.</p>

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Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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			<p>of the convictions that resulted in incarceration denies any of the benefits of this relief and directly contravenes the legislative intent.</p> <p>Unlike relief under the other sections of Pen. Code 1203.4, section 1203.4b is based on behavior after the conviction and the interest of justice. Eligibility to work in the fire camp is based on the entire case for which the person is sentenced thus relief should be based on the whole case not a portion thereof. Further, relief under this code differs from other relief in that it does not require the completion of supervision or other post incarceration requirements. For these reasons partial relief for eligible convictions would disrupt the purpose of the law.</p> <p>We suggest that the CR-432 reflect a single option; if the court determines that relief is granted under 1203.4b it would be applied to all cases/convictions for which the person is eligible for relief.</p> <p>3. CR-430 INFO provides an inaccurate description of the court's duty to deny relief for people with violations while on supervision</p> <p>Third, the draft CR-430-INFO, question number two, tells potential petitioners that "the court will NOT grant your petition for dismissal" if you have a violation of supervision. This does not accurately describe 1203.4b(b)(3). The statute requires that supervision be terminated if discretionary relief is granted and the petitioner has not had any violations. It does not require a petitioner to have no violations in order to be granted relief. In the instance that the court finds someone on supervision eligible for relief it is within the courts discretion to (1) grant relief in the interest of justice, and (2) terminate supervision even if there was a violation while on supervision. We suggest that the answer to that question reflects that termination of supervision is required if relief is granted and there have been no supervision violations. And also that relief may be granted, including termination of supervision, at the court's discretion even if there are</p>	<p>Based on this and other comments received, the committee determined that some of the information in item 2 of form CR-430-INFO was confusing and possibly not in conformity with the early termination of supervision provisions in Penal Code section 1203.4b. The committee also concluded that section 1203.4b does not directly address whether early termination of supervision may be granted when there has been a violation of the terms or conditions of supervision. Taking the above into account, the committee has modified item 2 of form CR-430-INFO to more closely match the statutory language.</p>

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SPR21-07**Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief** (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			supervision violations.	
2.	Walter Holloway San Diego	A	I believe this proposed modification is completely ideal and prevention alleviates a lot of Disconnect within courts, defendants and the Department of Corrections (CDCR).	The committee appreciates the comment.
3.	Legal Services of Northern California by Wade Askew Managing Attorney Vallejo	AM	<p>Legal Services of Northern California is a legal aid organization serving low-income Californians across 23 counties. We annually assist and represent numerous individuals apply for forms of criminal record relief that reduce barriers to employment and housing, work that furthers our anti-poverty mission. We applaud the Judicial Council for developing forms to make new forms of relief more accessible to Californians who served the state as hand crew members in fire camp programs during their incarceration. Simple and effective forms will help make this significant relief meaningful to those entitled to it.</p> <p>In response to the specific questions posed by the Judicial Council, the proposed forms appropriately address the stated purpose. It is undoubtedly helpful to pro per petitioners and legal aid advocates to create a standard form instead of requiring a full noticed motion. In our experience, a high proportion of clean slate petitioners represent themselves in pro per and struggle to prepare noticed motions from scratch. Accessible forms are vital for these petitioners.</p> <p>In addition, there is a benefit in having the court state reasons that granting relief would not serve interests of justice when denying a petition. In our experience helping pro per petitioners apply for other forms of criminal record relief, petitioners are often left confused, discouraged, frustrated, and lose a degree of faith in the judicial system when no reason is given for a petition's denial. In addition, articulating reasons for denial puts petitioners on notice as to what the court needs to see change in potential future petitions.</p> <p>Our office has the following comments for the specific proposed</p>	

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Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>forms:</p> <p>CR-430</p> <p>If a petitioner serves one term of incarceration for convictions in multiple cases, we request that the petitioner be able to list all relevant cases on one form. In our experience, the more paperwork that is necessary for pro per petitioners to complete, the more likely it is that pro per petitioners become overwhelmed. To do this, we ask that the Judicial Council create space to list multiple case numbers on each form.</p> <p>Allowing a petitioner to request 1203.4b relief in multiple cases within the same form would also preserve judicial resources by requiring less filings. When petitioning for 1203.4b relief in multiple convictions for which a petitioner served time concurrently, it is reasonable that a petitioner would submit the same evidence for the multiple cases. Instead of copying that evidence into multiple petitions, streamlining submissions into one petition would allow for a simpler process. Judges could still retain the flexibility to grant 1203.4b relief in some cases instead of others if the CR-432 allows judges to specify that relief is granted in some cases but not others. Similarly, District Attorneys would have the ability to support or oppose relief in certain cases but not others if multiple case numbers may be listed on the CR-431.</p> <p>Also on the CR-430, Item 2(e) should allow for case numbers (plural) for which petitioner is currently on probation/parole/supervision, as a petitioner may serve concurrent supervision sentences.</p> <p>CR 430-INFO</p> <p>Item 1</p>	<p>The committee discussed the suggestion and declines to incorporate it, given that allowing multiple cases on a single form may result in increased administrative confusion—for example, if a petitioner requested relief for convictions originating in different courts.</p>

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Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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			<p>The bottom of the left column wrongly cites 1203.4 instead of 1203.4b. It should read, “NOTE: You are NOT eligible for Penal Code section 1203.4b.”</p> <p>Item 2 In the second bullet point, add “If you’re still on probation, parole, or supervised release, and you have violated...” This would eliminate potential confusion for people who may think a prior violation renders them ineligible, which it does not.</p> <p>While we understand that the bulletpoint is listed under a heading implying this would only apply to violation of an ongoing form of supervision, adding the clause “If you’re still on probation...” would help make the form more accessible to all reading levels.</p> <p>Item 4 We encourage the Judicial Council to standardize court processes regarding service. We have found that county courts have widely varying methods of processing clean slate petitions, which causes confusion for both court users and legal aid advocates. This confusion leads to unnecessarily dismissed petitions, rejected filings, and inhibits access to the courts. One standard process would also simplify the INFO form itself such that alternative instructions do not have to be listed.</p> <p>As a best practice, we ask that petitioners never be required to serve file-stamped copies of their CR-430 petitions. Instead, petitioners should be allowed to first serve their petitions to the District Attorney, then file their petitions and proofs of service concurrently. The court would then be responsible to inform the parties of any hearing date, as it does in most types of actions. This is especially appropriate for 1203.4b petitions, where the court may choose to not schedule a hearing in certain cases.</p>	<p>The committee appreciates the comment and has corrected the error.</p> <p>Based on this and other comments received, the committee determined that some of the information in item 2 of form CR-430-INFO was confusing and possibly not in conformity with the early termination of supervision provisions in Penal Code section 1203.4b. The committee has modified item 2 of form CR-430-INFO to more closely match the statutory language.</p> <p>The committee appreciates the comment and acknowledges that local court practices may differ with respect to service. The comment, however, is beyond the scope of the proposal.</p>

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			<p>In other contexts, we have seen low-income petitioners struggle to complete the alternative process of filing a petition, serving a file-stamped copy, then filing a proof of service. Put simply, more steps lead to more confusion. This process often requires multiple trips to the courthouse, something many low-wage workers and parents without daycare cannot afford. Requiring service of file-stamped petitions also creates significant burdens on legal aid organizations. Instead of completing all paperwork (including proof of service) in one appointment, we must schedule two appointments with a client, before and after initial filing. Also, in our experience, nearly all courts across the state do not require service of a file-stamped copy of a CR-180 petition; keeping the CR-180 and CR-430 processes as similar as possible will help eliminate confusion and improve access.</p> <p>Finally, Item 4(d) instructs petitioners as if they always must serve a file-stamped copy of a petition, whereas item 4(a) indicates that some courts will not require this process. This is confusing for court users. In addition, we reiterate our request that petitioners never be required to serve file-stamped copies, but that instead courts maintain a consistent process whereby petitioners may always serve unstamped copies of the CR-430.</p> <p>Item 5 The personal service and service by mail options both specify serving a file-stamped copy. This again conflicts with the information in 4(a) and our request to not require service of a file-stamped copies.</p>	<p>The committee appreciates the comment and has changed the language in item 4 of form CR-430-INFO to specify that not all counties require service of a file-stamped copy. As stated above, the request that petitioners never be required to serve file-stamped copies is beyond the scope of the proposal.</p> <p>The committee has removed the word “file-stamped” from item 5 of form CR-430-INFO. As stated above, the request that petitioners never be required to serve file-stamped copies is beyond the scope of the proposal.</p>

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SPR21-07**Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief** (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>Item 7 The language “the court will not grant your petition unless the prosecuting attorney has had at least 15 days...” is unnecessarily negative and may confuse petitioners. We request that the language be changed to simple and positive language, such as, “The court can consider your petition 15 days after you serve the district attorney with your petition.”</p> <p>Item 7 also has a bullet point describing what happens if the District Attorney objects. We request that an additional bullet point be added to describe what happens if the District Attorney does not object (clarifying that the court still has discretion to grant or deny).</p> <p>Item 11 Add what happens if the court denies the petition, informing petitioners that they can petition again in the future as long as the case is not categorically ineligible for 1203.4b relief.</p> <p>CR 431 and 432</p> <p>See CR-430 comment – it would be helpful to allow form users to list multiple case numbers on a single form.</p>	<p>The committee agrees with this suggestion and has made the suggested change in item 7 of form CR-430-INFO.</p> <p>The committee declines the suggestion as unnecessary in light of the information provided throughout the rest of the information sheet.</p> <p>The committee agrees with this suggestion and has added language to item 11 of form CR-430-INFO indicating that a petitioner may resubmit their petition in the future if they think the court’s decision was incorrect.</p> <p>The committee declines to incorporate this suggestion for the reasons stated above.</p>
4.	Los Angeles County Public Defender by Thomas Moore Head Deputy Public Defender	AM	Thank you for the opportunity to submit comments regarding the proposal to provide a new set of forms to implement the provisions of Assembly Bill 2147 (Fire Camp Expungements). The Los Angeles County Public Defender supports the addition of these forms to facilitate the process of providing relief to eligible fire camp participants. We commend the Criminal Law Advisory Committee	

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			<p>for its acknowledgment that self-represented petitioners deserve equitable access to the relief that has been made available by the legislature.</p> <p>Form CR-430</p> <ul style="list-style-type: none">• The designation of Local Identifying Number would benefit from clarification. In our experience, petitioners seeking relief harbor some confusion as to whether this section refers to the petitioner's county jail booking number. Additionally, other identifying numbers are not readily accessible to those seeking relief. An explanation in the information sheet could resolve any misunderstanding.• Provide the opportunity to include a declaration and supporting documents, as allowed in Form CR-180. Given the discretionary nature of the court's authority to grant an order for dismissal in the interests of justice, a petitioner, especially one who is self-represented, should be permitted the option to attach and submit additional supporting documents. We suggest the inclusion of language on Form CR-180 which indicates, <i>You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant documents. If you need more space for your writing, you can use the Attached Declaration (form MC-031) and attach it to this petition.</i>• Authorize the court to simultaneously grant a reduction pursuant to Penal Code sections 17(b) and 17(d)(2)*. We recommend including language authorizing such reductions in the same manner as Form CR-180. The provisions of AB 2147 could not have intended to deprive petitioners the right seek such reductions available to similarly situated petitioners seeking relief pursuant to section 1203.4. By adding these on Form CR-430, courts will undertake the same analysis in granting reductions in conjunction with the relief.	<p>The committee declines the suggestion as unnecessary, and notes that providing a local identifying number is optional.</p> <p>The committee agrees with this suggestion, and has added a space on form CR-430 to allow a petitioner to make an interest of justice argument and/or to include an attached declaration.</p> <p>Because this would be a substantive change to the proposal, public comment would be required before it is considered for adoption. The committee may consider this suggestion during a future rule and form cycle.</p>

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Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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			<p>* All further statutory references are to the Penal Code unless otherwise specified.</p> <p>Form CR-430-INFO</p> <ul style="list-style-type: none">• The term “grade eligible” may not be generally understandable to those who have successfully participated in fire camp. Unless this term can be clarified, we suggest possible deletion.• The reference to 1203.4 under NOTE should instead read, Penal Code § 1203.4b. We believe this was an inadvertent omission.• The language that a county jail inmate was very likely given a CDCR number is should be amended. In our experience, the CDCR number bestowed upon county jail inmates who have participated in a fire camp program is not readily available. The inability to access may present a barrier for eligible petitioners seeking relief. As an alternative, we recommend that the language could be replaced by the words, it is possible.• Include factors that the court can consider to be in the interests of justice. The provisions of section 1203.4b confer discretion upon courts to grant or deny relief in the interests of justice. The definition of what the interests of justice may be, in any particular case, are subject to a wide variety of interpretation. However, all parties would benefit from an acknowledgement that certain well-established interests hold weight in the courts’ consideration. We recommend that a section be added to the information sheet to explain some of the factors that the court may consider in making its decision. Examples may include <i>the good faith effort petitioner has made toward rehabilitation and recognized achievements earned while participating in fire camp.</i>	<p>The committee declines the suggestion and believes inclusion of the term will be helpful to those who have participated in fire camp.</p> <p>The committee appreciates the comment and has corrected the error.</p> <p>The committee notes that the form states that it is “very likely the fire camp was operated by CDCR,” and that a CDCR number would have been given during the petitioner’s time in fire camp. The committee considers the existing text to be appropriate.</p> <p>The committee declines this suggestion, given that Penal Code section 1203.4b does not address what factors a court should consider in determining whether to grant relief in its discretion and in the interests of justice.</p>

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			<ul style="list-style-type: none"> • The language which indicates that a dismissal will not automatically reinstate your right to possess firearms should be amended. The statement, as written, may suggest that something else in the process can be performed to restore gun rights. To avoid this confusion, the language should reflect the plain language of the statute, which clearly stand that any relief pursuant to this section, <i>will not reinstate your right to possess firearms.</i> <p>Form CR-432</p> <ul style="list-style-type: none"> • The check box indicating that the prosecuting attorney has been given 15 days’ notice of the petition for relief is unnecessary. While similar provisions of section 1203.4 require 15 days’ notice, no check box is contained in Form CR-181, the order of dismissal. To the extent that the addition of such a specific finding is inconsistent with Form CR-181, we believe the inclusion is unnecessary. We recommend deleting this item. • An order denying relief should include the court’s statement of reasons. An order containing a statement of reasons for denial of relief would benefit petitioners who may be able to present additional information in a subsequent petition. Further, a denial order that includes a judicial statement of reasons will also provide the opportunity for effective appellate review. 	<p>The committee agrees with this suggestion and has removed the word “automatically” from item 12 of form CR-430-INFO.</p> <p>The committee agrees with this suggestion and has removed the checkbox from form CR-432.</p> <p>The committee appreciates the comment.</p>
5.	Neighborhood Legal Services of Los Angeles County by Yvonne Maria Jimenez President & CEO	NI	On behalf of Neighborhood Legal Services of Los Angeles County (NLSLA), we respectfully submit these comments in response to Invitation to Comment SPR21-07 regarding the Judicial Council Criminal Law Advisory Committee Proposed Forms CR-430, CR-430-INFO, CR-431, and CR-432. These forms are proposed in connection with Penal Code section 1203.4b, which authorizes post- conviction	

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	Laura Siegel, Staff Attorney		<p>relief for petitioners who successfully participate as an incarcerated individual hand crew member of a fire camp operated by a county or the California Department of Corrections and Rehabilitation.</p> <p>The mission of NLSLA is to expand access to justice and address the most critical needs of impoverished communities, including those of individuals with prior system-involvement. In the last two years, our office assisted hundreds of clients to remove critical barriers they face as a result of their criminal records, including preparation of expungement petitions, motions for early termination of probation and petitions to reduce convictions to lower level offenses.</p> <p>Conviction history leads to difficulty maintaining or obtaining stable housing, employment, and supportive services for individuals with prior system involvement. These consequences negatively affect not only the individuals themselves but also their families who profoundly suffer from these penalties. In California, low-income people of color are overrepresented at every stage in the criminal legal system. As a result, they are more likely to face the collateral consequences that stem from having a criminal record. Therefore, the ability to access clean slate relief is a vitally important issue.</p> <p>NLSLA has seen numerous examples of people obtain housing, jobs, and professional licenses after availing themselves of post-conviction relief. Unfortunately, we have also seen just as many people who are unable to petition for relief due to a range of barriers related to a lack of clarity about the process for obtaining post-conviction relief, knowledge on how to collect necessary information, and instructions on how to complete, file and serve the required forms.</p> <p>California Penal Code 1203.4b confers several benefits to those that ultimately qualify for the relief it authorizes by 1) authorizing post-conviction relief for more people previously ineligible under this provision, 2) allowing an individual to petition the court earlier than</p>	

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			<p>previously possible, and 3) creating a pathway to better employment in multiple sectors that require professional licenses</p> <p>We thank and commend the Judicial Council for producing forms that will be an important tool in facilitating access to this valuable form of relief for petitioners, help the courts operate more efficiently by simplifying, standardizing, and clarifying the procedures and conserving court resources. However, in order to better achieve the stated purposes, we recommend the following modifications:</p> <p>A. Recommended Modifications to Form CR-430</p> <p>1. Refer petitioners to CR-430-INFO for further information and assistance.</p> <p>We recommend noting at the beginning of the CR-430 that petitioners can refer to CR-430-INFO for information to assist completion of CR-430. We recommend adding language such as “For directions on filling out this form, refer to Information on Filing a Petition for Dismissal – Incarcerated Individual Hand Crew (form CR-430-INFO) available at www.courts.ca.gov/forms). The purpose of this recommended modification is to make sure petitioners know of the existence of CR-430-INFO, which is important given the very helpful information contained on the form.</p> <p>2. Clarify the meaning of “released from custody” on CR-430, section 2.</p> <p>We recommend adding the phrase “is not in jail or prison” to CR-430, section 2, subsection d. With the proposed revision the sentence would be: “Petitioner has been released from custody (is not in jail or prison) and has no pending criminal charges.”</p> <p>We recommend this change as we anticipate that pro per petitioners may be uncertain about the meaning of “custody” in this context. Petitioners may be discouraged from petitioning for relief if they do not</p>	<p>The committee agrees with this suggestion and has added a reference to form CR-430-INFO at the top of form CR-430.</p> <p>The committee appreciates the comment, and prefers to modify item 1 of form CR-430-INFO to include this information.</p>

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			<p>understand the question. For example, petitioners may not know whether they qualify as “released from custody” if they are on parole.</p> <p>B. Recommended Modifications to Form CR-430-INFO</p> <p>1. Explain that if the court denies relief, the denial is without prejudice. Penal Code section 1203.4b(a)(2) states that any denial of relief under this section is without prejudice. This is reflected in CR-430 section 2. In order to help petitioners whose petitions are denied understand their options in the future, it would be helpful to explain what this means on the CR-430-INFO. The current draft CR-430-INFO, section 12 says “If the court grants relief, what happens to my conviction?” We recommend adding a section after this entitled: “If the court denies relief, am I able to petition again in the future?” This section would explain that denials are without prejudice, leaving open the option to petition again in the future. This will help facilitate availability of this relief to petitioners.</p> <p>2. Clarify how petitioners can get information about local rules regarding filing and serving the petition. CR-430-INFO section 4, subsection 3, includes the information that petitioners may file by, “filing electronically if local court rules permit this type of filing.” We anticipate that eligible pro per petitioners will be uncertain about how to learn about local court rules, and therefore will be discouraged from petitioning. We recommend adding to this section the following information: “Contact the court clerk or check the court’s website to see if any local rules exist regarding filing and/or service of the petition and ask how you can receive proof of filing.”</p> <p>C. Recommended Modifications Affecting both CR-430 and CR-430-INFO</p>	<p>The committee appreciates the comment. As noted above, the committee has added language to item 11 of form CR-430-INFO indicating that a petitioner may resubmit their petition in the future if they think the court’s decision was incorrect.</p> <p>The committee agrees with this suggestion and has added the suggested language, with minor alterations, to item 4 of form CR-430-INFO.</p>

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SPR21-07

Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>1. Add information about attaching a declaration and supporting information.</p> <p>Recommended Modifications to the CR-430: We recommend that the CR-430 contain a place for petitioners to attach a declaration and other supporting materials with their petition. Penal Code section 1203.4b(c)(1) authorizes the court to grant relief, “in its discretion and in the interest of justice.” The proposed forms do not have any place for the petitioner to provide information to help the court determine whether it serves the interest of justice for the relief to be granted, nor any indication of how to do so. For example, in contrast, on the current form CR-180 (Petition for Dismissal), in the sections that deal with discretionary set aside and dismissal relief, there is the following language:</p> <p>“Please note: You may explain why granting a dismissal would be in the interests of justice. You can provide that information by writing in the space below, or by attaching a letter or other relevant document. If you need more space for your writing, you can use the Attached Declaration (form MC- 031) and attach it to this petition.”</p> <p>We recommend modifying the CR-430, section 2, to add similar language and accompanying blank space to add additional information, and also including MC-031 or similar declaration form with the package of forms for people who wish to petition for relief under Penal Code section 1203.4b.</p> <p>Recommended Modifications to the CR-430-INFO: We recommend adding corresponding language to the CR-430-INFO, section 11, subsection a: “You may explain to the court why granting a dismissal would be in the interests of justice by providing more information on the form, or in an enclosed declaration. You may also attach documents to support your petition.”</p>	<p>The committee agrees with this suggestion, and has added a space on form CR-430 to allow a petitioner to make an interest of justice argument and/or to include an attached declaration</p> <p>The committee appreciates the comment, and prefers to modify item 3 of form CR-430-INFO to include this information.</p>

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Commenter	Position	Comment	Committee Response				
		<p>These modifications will better equip petitioners to understand and navigate the process and will assist courts handle petitions more efficiently by providing them with information needed to make the necessary determination.</p> <p>D. Recommended Modifications Affecting both CR-430-INFO and CR-432</p> <p>1. Clarify that the court may order early termination of probation, parole, or supervised release even when there has been a violation of the terms or conditions or probation, parole, or supervised release.</p> <p>Recommended modification to the CR-430-INFO Section 2: We recommend changing the 2nd and 3rd bullet points:</p> <table><tr><th>Current Language</th><th>Recommended Language</th></tr><tr><td><ul style="list-style-type: none">• If you have violated any term or condition of your supervision before or during the time the court is reviewing your petition, then the court will NOT grant your petition for dismissal• If you have no violations, the court may grant your petition and order early termination of probation, parole, or supervised release.</td><td><ul style="list-style-type: none">• <i>If you have not violated any term or condition of your supervision before or during the time the court is reviewing your petition, and the court grants your petition for dismissal, the court will order early termination of probation, parole, or supervised release.</i>• <i>If you have any violations, the court may grant your petition and may order early termination of probation, parole, or supervised release.</i></td></tr></table> <p>Recommended modification to the CR-432: We recommend a corresponding change be made to the CR-432, section 2. Currently, the 4th check box in this section only provides space for the court to order</p>	Current Language	Recommended Language	<ul style="list-style-type: none">• If you have violated any term or condition of your supervision before or during the time the court is reviewing your petition, then the court will NOT grant your petition for dismissal• If you have no violations, the court may grant your petition and order early termination of probation, parole, or supervised release.	<ul style="list-style-type: none">• <i>If you have not violated any term or condition of your supervision before or during the time the court is reviewing your petition, and the court grants your petition for dismissal, the court will order early termination of probation, parole, or supervised release.</i>• <i>If you have any violations, the court may grant your petition and may order early termination of probation, parole, or supervised release.</i>	<p>Based on this and other comments received, the committee determined that some of the information in item 2 of form CR-430-INFO was confusing and possibly not in conformity with the early termination of supervision provisions in Penal Code section 1203.4b. The committee also concluded that section 1203.4b does not directly address whether early termination of supervision may be granted when there has been a violation of the terms or conditions of supervision. Taking the above into account, the committee decided to modify item 2 of form CR-430-INFO to more closely match the statutory language.</p> <p>The committee discussed the suggestion, but does not recommend incorporating it at this time because Penal Code section</p>
Current Language	Recommended Language						
<ul style="list-style-type: none">• If you have violated any term or condition of your supervision before or during the time the court is reviewing your petition, then the court will NOT grant your petition for dismissal• If you have no violations, the court may grant your petition and order early termination of probation, parole, or supervised release.	<ul style="list-style-type: none">• <i>If you have not violated any term or condition of your supervision before or during the time the court is reviewing your petition, and the court grants your petition for dismissal, the court will order early termination of probation, parole, or supervised release.</i>• <i>If you have any violations, the court may grant your petition and may order early termination of probation, parole, or supervised release.</i>						

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Criminal Forms: Incarcerated Individual Hand Crew Conviction Relief (Approve forms CR-430, CR-430-INFO, CR-431, and CR-432)

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	Commenter	Position	Comment	Committee Response
			<p>early termination of supervision if there have been no violations of the terms or conditions of probation, parole, or supervised release. We recommend: 1) adding an additional checkbox under the current 4th checkbox in this section; and 2) adding accompanying text to this checkbox: “The court orders early termination of (check one):” with checkboxes for each of the 3 forms of supervision.</p> <p>These modifications are recommended so the forms reflect the applicable law and allow for discretionary termination of supervision. Penal Code 1203.4b(b)(3) states:</p> <p>To be eligible for relief pursuant to this section, the defendant is not required to complete the term of their probation, parole, or supervised release. Notwithstanding any other law, the court, in providing relief pursuant to this section, shall order early termination of probation, parole, or supervised release if the court determines that the defendant has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief pursuant to this section.</p> <p>The statutory language says that if the court grants relief to a petitioner who is on supervision that the court shall terminate probation early if there have been no violations. There is nothing in the statute that prevents the court from exercising discretion to terminate supervision early if there are violations.</p> <p>E. General Comment Regarding CR-432: There is benefit in having the court state on CR-432 the reasons for the court’s determination that granting relief to the petitioner would not serve the interests of justice. We recommend this information remain on the form.</p> <p>To answer a question posed in the request for comments, it will be very beneficial to have the court state on form CR-432 the reasons for the court’s determination that granting relief to the petitioner would not serve the interests of justice, if that is the court’s decision. Providing the basis for the court’s decision will better position petitioners for future access to this relief. This aspect of the CR- 432 will also help</p>	<p>1203.4b does not directly address whether early termination of probation, parole, or supervised release may be granted when there has been a violation of the terms of probation, parole, or supervised release.</p> <p>The committee appreciates the comments.</p>

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			guide the courts efficiently through the process of considering the petition and communicating the decision to the petitioner. Furthermore, it will avoid courts having to respond to later questions about the reasons for the denial, conserving court resources.	
6.	Orange County Bar Association by Larisa M. Dinsmoor President	AM	<p>Under Penal Code section 1203.4b, individuals who successfully participated in “fire camp” through either state prison or county jail can petition for relief under this section. The Judicial Council created forms to facilitate the petition process.</p> <p>The forms are accurate and will likely be a help to counties which do not currently have forms in place.</p> <p>Some proposals:</p> <ul style="list-style-type: none">• (CR-430) Page 6, Part 2: This portion should be clarified to make it clear that individuals who were convicted of these offenses and participated in fire camp are not eligible; however, individuals with these convictions as prior (or future) offenses are not barred from seeking eligibility.• (CR-430 INFO) Page 8, Part 1, subdivision b: The words “grade eligible” in the parentheses should be stricken, as those words appear nowhere in the statute.• (CR-430 INFO) Page 8, Part 2: The 2nd paragraph is an incorrect statement of law. The law imposes no such requirement. Instead, it is up to the court’s discretion. This entire paragraph should be stricken.	<p>The committee discussed the suggestion, but declines to incorporate it. The committee determined that, as a matter of statutory interpretation, neither the plain text of the statute nor the legislative history provide a definitive answer as to the legislative intent on this issue. The committee concluded that the language in the circulated form was appropriate.</p> <p>The committee declines the suggestion and believes inclusion of the term will be helpful to those who have participated in fire camp.</p> <p>Based on this and other comments received, the committee determined that some of the information in item 2 of form CR-430-INFO was confusing and possibly not in conformity with the early</p>

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			<p>Possible issue:</p> <ul style="list-style-type: none"> The CR-430 INFO form tells litigants to file their petition in the county where they were sentenced. There are no published cases on this issue, but this may or may not be accurate for individuals who had their probation transferred under Section 1203.9. 	<p>termination of supervision provisions in Penal Code section 1203.4b. The committee has modified item 2 of form CR-430-INFO to more closely match the statutory language.</p> <p>The committee appreciates the comment, and notes that the instruction to file in the county of sentencing mirrors Penal Code section 1203.4b(1).</p>
7.	Superior Court of San Orange County by Randy Montejano Courtroom Operations Supervisor	NI	<p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> Does the proposal appropriately address the stated purpose? Yes, the proposal does address the stated purpose. Is there benefit in having the court state, on proposed form CR-432, the reasons for the court's determination that granting relief to the petitioner would not serve the interests of justice, or is it unnecessary? If the petition is denied because it "would not serve the interests of justice" and, per code, this denial would be without prejudice, and though the defendant would not really have an opportunity to correct the defect of "interest of justice", it would appear to be helpful in ensuring that the certification is complete and has <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> Would the proposal provide cost savings? If so, please quantify. There are no cost savings identified upfront, as some courts have already created a petition/order and certification for the CDCR as it 	The committee appreciates the comments.

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			<p>relates to this legislation. There will be a benefit in standardizing these optional forms for the petitioner, and will promote consistency of the process across the state.</p> <ul style="list-style-type: none">• 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? In the case of Orange County, two local forms have already been created for this process and it involved the creation / modification several docket codes. Procedurally, the references to the proposed Judicial Council forms would not be extensive.• Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, three months provides ample time for implementation, as some courts have already established a process with local forms.• How well would this proposal work in courts of different sizes? Given that some courts have already established a process to handle these petitions and are already processing using their own local forms, and the fact that the optional forms support an existing process while still allowing for those local forms, there would not appear to be an issue with implementation based on court size. <p>Additional Comments: Form CR-430 section 2 (e) should remove the word “on” and modify the options for selection as follows “on probation”, “on parole” and “on supervised release” in order to be grammatically correct.</p>	<p>The committee has made the suggested correction to item 2e of form CR-430.</p>
8.	Superior Court of San Diego County	A	<ul style="list-style-type: none">• Does the proposal appropriately address the stated purpose? Yes.	The committee appreciates the comments.

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	Commenter	Position	Comment	Committee Response
	by Michael M. Roddy Executive Officer		<ul style="list-style-type: none"> Is there benefit in having the court state, on proposed form CR-432, the reasons for the court's determination that granting relief to the petitioner would not serve the interests of justice, or is it unnecessary? No. 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? To adopt any new form, the court would need to bring the form to the relevant internal court management committees for review, discussion, and instructions to be given to staff. The review process would likely to 1-2 months. The training needed of staff would be minimal. It is not anticipated that the court would need to revise existing process procedures or case management systems. However, a new operational procedure may be needed. Would three 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? There should be no disparate impact between courts of different sizes. 	
9.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Subcommittee	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> Results in additional training, which requires the commitment of staff time and court resources. 	The committee appreciates the comments.

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			<ul style="list-style-type: none"> ○ Staff will require training, especially on the part of the process that requires confirmation that the defendant participated as an incarcerated hand crew member. If CDCR does not timely respond, the clerk will need to follow up in order for the court to make its order. ● Increases court staff workload. ○ Initial estimates are that this will not create a huge workload, but how many defendants submit requests is unknown. 	
10.	Scott Urban San Diego	AM	<p>My son has been an inmate firefighter on a hand crew at the Corcoran State Prison for over 20 months. Only 10 inmates out of 3,000 can qualify for this respected position. As firefighters, they frequently go outside the prison walls to fight structure fires, ground fires, assist with auto collisions and team with the local Corcoran fire station on assisted calls. My son and his teammates have entered burning buildings and risked their lives for the surrounding community.</p> <p>I have spoken with the authors of AB 2147 and confirmed that the bill was written with the purpose of including firefighters who are stationed at prison facilities. Please refer to section 1203.4b(a)(1) of the bill “If a defendant successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, and has been released from custody, the defendant is eligible for relief pursuant to this section.” This language uses the word “or” and refers to both participants in a conservation camp OR successfully participated as a member of a county incarcerated hand crew of a county.</p> <p>I am asking that you include options on your forms to include those individuals who are working as firefighters of county hand crews. To</p>	The committee notes that, consistent with Penal Code section 1203.4b, the proposed forms provide for two categories of individuals to petition for relief: those who successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, and those who successfully participated as a member of a county incarcerated individual hand crew. To the extent the commenter contends that the forms should apply to inmate firefighters stationed at prison facilities (as distinct from individuals in the two aforementioned categories), the committee declines the suggestion as inconsistent with the statutory language.

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			exclude the county individual hand crews would be counter to how the bill was written and the intent of the authors. These individual county hand crews are not a large population throughout the state but are equally referred to in the language of AB 2147.	

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