



# Judicial Council of California

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## Subject Details (With Text)

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**File #:** 22-095      **Version:** 1

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**On agenda:** 5/13/2022      **Final action:**

**Title:** Rules and Forms | Criminal Procedure: Mental Competency Proceedings (Action Required)

**Sponsors:**

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**Attachments:** 1. CO 20220510-22-095

Date	Ver.	Action By	Action	Result
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### Title

### Rules and Forms | Criminal Procedure: Mental Competency Proceedings (Action Required)

#### Summary

The Criminal Law Advisory Committee recommends amendments to California Rules of Court, rule 4.130, to reflect statutory changes to Penal Code section 1370 and new Welfare and Institutions Code section 4335.2 authorizing the Department of State Hospitals to conduct a reevaluation of a defendant found to be incompetent to stand trial in specified circumstances, and statutory changes to Penal Code section 1370.01 regarding defendants found incompetent to stand trial in a misdemeanor criminal proceeding.

#### Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council amend rule 4.130 of the California Rules of Court, effective May 10, 2022. The proposal would:

- Clarify that a placement recommendation from the court-appointed expert only applies to felonies;
- Add a subdivision requiring the expert competency report to contain an opinion as to whether a misdemeanor defendant is “gravely disabled”;
- Clarify that restoration only applies to felonies and those found incompetent to stand trial due to developmental disabilities;
- Add a new subdivision to state posttrial options provided in the amended statute when a defendant is found incompetent to stand trial in a misdemeanor criminal proceeding;
- Delete provisions that duplicate statutes on mental health diversion;
- Amend the title to subdivision (h) to clarify that the contents apply to posttrial hearings on competence under Penal Code section 1370; and
- Add references to reevaluations done by Department of State Hospitals.