



Subject Text

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Title

Rules and Forms: Criminal Procedure: Superior Court Procedures for Death Penalty-Related Habeas Corpus Proceedings (Action Required)

Summary

The Proposition 66 Rules Working Group recommends the adoption of seven new rules of court to govern the filing, hearing, and adjudication of death penalty-related habeas corpus petitions in the superior courts. These proposed rules are intended to partially fulfill the Judicial Council's rule-making obligations under Proposition 66.

The working group is concurrently submitting a separate report and recommendation to amend an existing rule and adopt new rules and a form related to the appeals from superior court decisions in death penalty-related habeas corpus proceedings.

Recommendation

The Proposition 66 Rules Working Group recommends that the Judicial Council, effective April 25, 2019:

1. Adopt rule 4.571 to establish procedures related to the filing of death penalty-related habeas corpus petitions in the superior courts, including by:
 - a. Establishing the filing, service, and formatting requirements for the petition and related papers;
 - b. Establishing requirements for the supporting documents that accompany the petition;
 - c. Requiring the clerk of the superior court to file a petition submitted by an attorney notwithstanding noncompliance with the rule, and allowing the court to notify the attorney that the court may strike the petition or impose a lesser sanction if the petition is not brought into compliance within a reasonable time; and
 - d. Establishing a deadline for the superior court to take action following the filing of a petition in, or transfer of a petition to, the court;
2. Adopt rule 4.572 to provide a deadline for a superior court to transfer a death penalty-related petition to the superior court that imposed the sentence unless the court finds good cause to consider the petition;
3. Adopt rule 4.573 to establish procedures related to the filing of an informal response to an initial petition when the superior court requests an informal response by:
 - a. Establishing the filing, service, and formatting requirements for an informal response and reply;
 - b. Establishing deadlines for the service and filing of an informal response and reply and authorizing the superior court to extend the deadlines for good cause shown; and

- c. Establishing when the petitioner is entitled to the issuance of an order to show cause;
4. Adopt rule 4.574 to establish procedures following the issuance of an order to show cause by:
 - a. Establishing the filing, service, and formatting requirements for a return and a denial;
 - b. Establishing deadlines for the service and filing of a return and a denial and authorizing the superior court to extend the deadlines for good cause shown;
 - c. Establishing a deadline for the superior court to act following expiration of the deadline for the filing of a denial;
 - d. Establishing when the petitioner is entitled to an evidentiary hearing; and
 - e. Establishing that a cause is deemed submitted at the conclusion of an evidentiary hearing, if one is held, or if supplemental briefing is ordered after the evidentiary hearing, when the supplemental briefing is filed with the court.
5. Adopt rule 4.575 to establish requirements for the statement of decision;
6. Adopt rule 4.576 to establish procedural requirements related to successive petitions by requiring a superior court to:
 - a. Provide a notice to petitioner and an opportunity to respond before dismissing the successive petition; and
 - b. Grant or deny a certificate of appealability concurrently with the issuance of its decision denying relief on the successive petition;
7. Adopt rule 4.577 to require counsel for a petitioner to deliver all files counsel maintains related to the proceeding to the attorney representing the petitioner in any appeal taken from the decision in the superior court proceeding; and
8. Refer to the Judicial Council's Rules and Projects Committee all proposals for additional substantive changes that the working group discussed or received from commenters, but that it was not able to address during its work, so that the Rules and Projects Committee may determine which advisory body, if any, should consider such proposals in the future.

Speakers

Hon. Dennis M. Perluss, Chair, Proposition 66 Rules Working Group