



Judicial Council of California

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Subject Text

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File #: 15-385, Version: 1

Title

Criminal Procedure: Petition and Order for Dismissal--Human Trafficking Victims (Action Required)

Summary

In response to legislation that provides a new statutory basis for dismissals, the Criminal Law Advisory Committee recommends revising the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to add data fields to facilitate dismissals under Penal Code section 1203.49 for victims of human trafficking. The committee also recommends revising both forms to incorporate reductions of misdemeanors to infractions under Penal Code section 17(d)(2) and to improve the format, advisements, and instructions on both forms.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2016, revise the *Petition for Dismissal* (form CR-180) and the *Order for Dismissal* (form CR-181) to:

1. Add new item 4 to form CR-180, including a check box and related instructions, to facilitate requests for dismissal under Penal Code section 1203.49, and add a check box for Penal Code section 1203.49 to the request for relief.
2. Revise items 1 and 2 on form CR-181 to include reductions from a misdemeanor to an infraction under Penal Code section 17(d)(2) and to clarify whether the court's decision to grant or deny the requested relief is for all or only selected convictions in the case.
3. Add check boxes to items 3 and 4 on form CR-181 for courts to grant or deny dismissal relief under Penal Code section 1203.49 for all or some of the convictions.
4. Add new item 5 to form CR-181 to facilitate the ordering of relief when the court grants the petition under Penal Code section 1203.49 to indicate whether the court is ordering all or some of the relief described in Penal Code section 1203.4.
5. Delete the following phrase (former item 5(c) on form CR-181) to reduce confusion about alternative forms of relief: "The petitioner may also be eligible to obtain a certificate of rehabilitation and pardon under the procedure set forth in Penal Code section 4852.01 et seq."
6. Add new item 7 to form CR-181 to notify the Department of Justice, when relief is granted under Penal Code section 1203.49, that the petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.
7. Add a reference to Penal Code section 1203.49 to the advisement in item 8, and references to Penal Code sections 17(d)(2) and 1203.49 to the advisements in item 9 on form CR-181.
8. Revise the format, advisements, and instructions by (a) adding a reference to Penal Code section 1203.49 and 17(d)(2) to the caption of both forms; (b) removing the box for specifying the titles of the offenses for which the petitioner is seeking dismissal in item 1 on form CR-180, and adding the word "offenses" to the introductory sentence; and (c) adding a box to item 1 on form CR-180 for specifying whether each offense is "[e]ligible for reduction to infraction under Penal Code section 17(d)(2) (Yes or No)."