



Judicial Council of California

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November 17, 2023

Subject Text

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File #: 15-415, Version: 1

Title

Judicial Council-Sponsored Legislation (Criminal Justice Realignment): Court Jurisdiction Over and Calculation of Time During Supervision Revocation (Action Required)

Summary

The Policy Coordination and Liaison Committee and the Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code sections 1203.2(a), 1170(h)(5)(B), and 3456(b) to clarify that when supervision has been revoked, summarily or otherwise, the time that elapses during revocation shall not be credited toward any period of supervision. The proposal was developed at the request of criminal law judges to enhance judicial discretion by preserving court jurisdiction to adjudicate revocations of probation, mandatory supervision, and postrelease community supervision.

Recommendation

The PCLC and CLAC recommend that the Judicial Council sponsor legislation to amend Penal Code sections 1203.2(a), 1170(h)(5)(B), and 3456(b), as follows:

1. Probation: Replace the current tolling provision in Penal Code section 1203.2(a), “The revocation, summary or otherwise, shall serve to toll the running of the period of supervision,” with the provision, “Time during revocation, summary or otherwise, shall not be credited toward any period of supervision.”
2. Mandatory Supervision: Replace the current tolling provision in Penal Code section 1170(h)(5)(B), “Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision,” with the provision, “Time during revocation, summary or otherwise, shall not be credited toward any period of supervision; provided, however, that the defendant shall not remain in custody for a period longer than the term of supervision imposed under this section.”
3. Postrelease Community Supervision: Replace the current tolling provision in Penal Code section 3456(b), “Time during which a person on postrelease supervision is suspended because the person has absconded shall not be credited toward any period of postrelease supervision,” with the provision, “Time during revocation, summary or otherwise, shall not be credited toward any period of supervision; provided, however, that the person subject to postrelease supervision shall not remain in custody for a period longer than the term of supervision authorized under this section.”