



Judicial Council of California

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March 15, 2024

Subject Text

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Title

Judicial Council-Sponsored Legislation: Prearrestment Own Recognizance Release Under Court-Operated or Approved Pretrial Programs (Action Required)

Summary

The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1319.5 to provide courts with discretion to approve own recognizance (OR) release for arrestees with three prior failures to appear, without holding a hearing in open court, under a court-operated or court-approved pretrial program. Penal Code section 1319.5 requires a hearing in open court before an offender arrested for a felony offense who has previously failed to appear in court three or more times over the preceding three years may be granted OR release. This proposal was developed at the request of courts actively developing and expanding pretrial programs in an effort to address impacts on court calendars as well as the effects of jail overcrowding. The proposal is intended to provide judges with greater flexibility in ordering supervised release, and increase access to justice in the earliest stages of a criminal proceeding.

Recommendation

The Policy Coordination and Liaison Committee and Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1319.5(b)(2), as follows: Revise the definition of persons who may not be released on their own recognizance until a hearing is held in open court before a magistrate or a judge to exclude persons arrested for one of the designated offenses who have failed to appear in court as ordered three or more times over the preceding three years, if the person is released under a court-operated or court-approved pretrial release program.