



Judicial Council of California

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Title

Criminal Justice Realignment: Petition and Order for Dismissal (Action Required)

Summary

The Criminal Law Advisory Committee recommends revisions to two Judicial Council forms in response to recent legislation that authorizes dismissal relief for defendants sentenced to state prison for a felony that, if committed after the 2011 Realignment Legislation, would have been eligible for sentencing to a county jail under Penal Code section 1170(h)(5). The proposed revisions would incorporate the new statutory basis for relief on both forms.

Recommendation

The Criminal Law Advisory committee recommends that the Judicial Council, effective January 1, 2019, revise the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to incorporate the new statutory basis for relief under Penal Code section 1203.42, as follows:

1. Add a reference to section 1203.42 to the caption of both forms;
2. Add new item 6 to form CR-180 for petitioners to indicate the new option for requesting relief under section 1203.42;
3. Include in the instructions for new item 6 of form CR-180 that the petitioner may provide an explanation in the space below or complete and attach an *Attached Declaration* (form MC-031) or submit other relevant documents, and revise the instructions in items 3, 4 and 5 to indicate the same, for relief under sections 1203.4a, 1203.49 and 1203.41, respectively;
4. Remove the check boxes on renumbered item 9 on form CR-180, and reference the forms of relief that the petitioner has indicated “under the Penal Code section(s) noted above”;
5. Add five references to section 1203.42 to the body of form CR-181 to incorporate the new basis for relief: a check box with a citation to section 1203.42 to items 3 and 4, and a citation to section 1203.42 to current items 6, 8, and 9; and
6. Add space for notations following items 1-5 on form CR-181, and reverse the order of items 6 and 7.