



Judicial Council of California

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Subject Text

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File #: 16-175, Version: 1

Title

Criminal Procedure: Petition and Order for Dismissal-Deferred Entry of Judgment (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 1203.43 for defendants who were granted deferred entry of judgment on or after January 1, 1997, who successfully completed a deferred entry of judgment program, and for whom the criminal charge(s) were dismissed under Penal Code section 1000.3, as well as to make related revisions to the format, advisements, and instructions on both forms.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, revise the *Petition for Dismissal* (form CR-180) and the *Order for Dismissal* (form CR-181) to:

1. Add the phrase, “or was granted deferred entry of judgment,” to item 1 on form CR-180 to clarify that defendants granted deferred entry of judgment may use the form to request dismissal relief;
2. Add a check box and related instructions in new item 6 on form CR-180 to facilitate requests for dismissal under Penal Code section 1203.43, including check boxes to indicate whether the petitioner has attached a copy of his or her state summary criminal history information;
3. Add the phrase “or nolo contendere” and a check box for Penal Code section 1203.43 to the request for relief in item 8 on form CR-180, and to the grant or denial of relief in items 3 and 4 on form CR-181;
4. Add check boxes to items 3 and 4 on form CR-181 to clarify whether the court is granting or denying the request for dismissal relief under Penal Code section 1203.43 for all or some of the convictions, and add phrases referencing “pleas for deferred entry of judgment” to both items;
5. Add new item 10 to form CR-181 as an advisement to clarify that the basis for the dismissal under Penal Code section 1203.43 is the invalidity of defendant’s prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea combined with successful completion of a deferred entry of judgment program;
6. Revise the format, advisements, and instructions on both forms by (a) adding a reference to Penal Code section 1203.43 to the caption and footer of both forms, (b) including instructions to “check one” where appropriate, and (c) making other minor format revisions.