



Subject Text

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File #: 19-008, Version: 1

Title

Rules and Forms: Criminal Procedure: Multicounty Incarceration and Supervision (Action Required)

Summary

The Criminal Law Advisory Committee recommends amending California Rules of Court, rule 4.452, to implement section 1170.3 of the Penal Code to guide the second or subsequent court when determining the county (or counties) of incarceration and supervision in multicounty sentencing.

Recommendation

The Criminal Law Advisory Committee recommends that the council, effective July 1, 2019, amend rule 4.452 of the California Rules of Court to guide courts on multicounty sentencing under Penal Code section 1170(h) by adding the following:

1. Clarification that the second or subsequent court has the discretion to specify whether a previous sentence is to be served in custody or on mandatory supervision-and the terms of such supervision-but may not:
 - a. Increase the total length of the sentence imposed by the previous court;
 - b. Increase the total length of the actual custody time imposed by the previous court;
 - c. Increase the total length of mandatory supervision imposed by the previous court; or
 - d. Impose additional, more onerous, or more restrictive conditions of release for any previously imposed period of mandatory supervision.
2. A requirement that the second or subsequent court determine the county or counties of incarceration or supervision, including the order of service of incarceration or supervision.
3. A requirement that to the extent reasonably possible, the period of mandatory supervision be served in one county and after completion of any period of incarceration.
4. A requirement that the second or subsequent court calculate the defendant's remaining custody and supervision time in accordance with rule 4.472.
5. Specific factors for the court to consider when making its sentencing determination, including factors relevant to the appropriateness of supervision and incarceration in each respective county.
6. A requirement that if the defendant is ordered to serve only a custody term without supervision in another county, the defendant must be transported at such time and under such circumstances as the court directs, to the county where the custody term is to be served.
7. A requirement that the defendant be transported with an abstract of the court's judgment as required by Penal Code section 1213(a), or other suitable documentation showing the term imposed by the court and any custody credits against the sentence.
8. Discretion for the court to order the custody term to be served in another county without also transferring jurisdiction of the case in accordance with rule 4.530.
9. A requirement that if the defendant is ordered to serve a period of supervision in another county, with or without a term of custody, the matter must be transferred for the period of supervision in accordance with designated provisions of rule 4.530.