



Judicial Council of California

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Subject Text

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File #: 22-094, Version: 1

Title

Rules and Forms | Criminal Procedure: Motion and Order to Vacate Conviction or Sentence (Action Required)

Summary

The Criminal Law Advisory Committee recommends revisions to two optional Judicial Council forms in response to recent amendments to Penal Code section 1473.7(a)(1). Additionally, the revisions implement case law to (1) clarify the out-of-custody requirement; (2) include a request for appointment of counsel; and (3) add and clarify provisions around timeliness in filing the motion. The revisions also include nonsubstantive, technical amendments to simplify the language in the motion to aid self-represented petitioners and conform to the statutory language.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective September 21, 2022, revise *Motion to Vacate Conviction or Sentence* (form CR-187) and *Order on Motion to Vacate Conviction or Sentence* (form CR-188) to:

1. Reflect statutory changes to Penal Code section 1473.7, which became effective January 1, 2022;
2. Incorporate case law clarifying the custody requirement, appointment of counsel, and timeliness in filing the motion;
3. Simplify language to aid self-represented petitioners; and
4. Conform to statutory language.