

**Criminal Law Advisory Committee**  
**Annual Agenda<sup>1</sup>—2019**  
**Approved by RUPRO: October 19, 2018**

**I. COMMITTEE INFORMATION**

<b>Chair:</b>	Hon. Tricia A. Bigelow, Chair; Hon. Richard Couzens (Ret.), Vice Chair
<b>Lead Staff:</b>	Sarah Fleischer-Ihn, Attorney, Criminal Justice Services Office
<b>Committee's Charge/Membership:</b> <a href="#">Rule 10.42(a)</a> of the California Rules of Court states the charge of the Criminal Law Advisory Committee, which is to make recommendations to the Judicial Council for improving the administration of justice in criminal proceedings.  The Criminal Law Advisory Committee currently has 21 voting members. The attached term of services chart provides the composition of the committee.	
<b>Subcommittees/Working Groups<sup>2</sup>:</b> 1. Protective Orders Working Group (POWG)	

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<sup>1</sup> The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

<sup>2</sup> California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

## II. COMMITTEE PROJECTS

#	New or One-Time Projects <sup>3</sup>	
1.	<b><i>Implementation of SB 10, pretrial release or detention: pretrial services</i></b>	<b><i>Priority 1(a)</i></b> <sup>4</sup>
	<p><b><i>Project Summary:</i></b> Develop rules of court to implement SB 10, pretrial release or detention: pretrial services (Hertzberg; Stats. 2018, ch. 244) and assist criminal courts with any required implementation.</p> <p><b><i>Status/Timeline:</i></b> It is anticipated that the rule proposals will be effective by SB 10's effective date of October 1, 2019.</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> All draft proposals will circulate for public comment.</p> <p><b><i>AC Collaboration:</i></b> None.</p>	
2.	<b><i>Amend California Rules of Court, rule 4.452, determinate sentence consecutive to prior determinate sentence, to incorporate legislative changes made by SB 670</i></b>	<b><i>Priority 1(a)</i></b>
	<p><b><i>Project Summary:</i></b> Amend California Rules of Court, rule 4.452, to implement SB 670 (Jackson; Stats. 2017, ch. 287), which amended Penal Code section 1170(h), requiring courts to determine the county or counties of incarceration and supervision for defendants when imposing judgments concurrent or consecutive to another judgment or judgments previously imposed under section 1170(h) in another county or counties. SB 670 also amended section 1170.3, requiring the Judicial Council to adopt rules of court providing criteria for the consideration of trial judges at the time of sentencing when determining the county or counties of</p>	

<sup>3</sup> All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

<sup>4</sup> For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	<b>New or One-Time Projects<sup>3</sup></b>	
	<p>incarceration and supervision. This proposal would implement section 1170.3 by amending California Rules of Court, rule 4.452 to guide the second or subsequent court when determining the county or counties of supervision.</p> <p><i>Status/Timeline:</i> April 2019 effective date following second circulation for comment.</p> <p><i>Fiscal Impact/Resources:</i> Committee staff</p> <p><i>Internal/External Stakeholders:</i> All draft proposals will circulate for public comment.</p> <p><i>AC Collaboration:</i> None.</p>	
3.	<i>Immigration Consequences</i>	<i>Priority 1(a)</i>
	<p><i>Project Summary:</i> Review the immigration consequences language in CR-101 (felony plea form) and CR-102 (misdemeanor domestic violence plea form) and propose appropriate amendments for the council’s consideration.</p> <p><i>Status/Timeline:</i> January 1, 2020 effective date</p> <p><i>Fiscal Impact/Resources:</i> Committee staff</p> <p><i>Internal/External Stakeholders:</i> All draft proposals will circulate for public comment, including to immigration law related stakeholders. The committee will consult with Legal Services for additional legal resources.</p> <p><i>AC Collaboration:</i> None.</p>	
4.	<i>Technical changes to rules and forms</i>	<i>Priority 1(a)</i>

#	New or One-Time Projects <sup>3</sup>	
	<p><b>Project Summary:</b> Develop rule and form changes as necessary to correct technical errors meeting the criteria of rule 10.22(d)(2); “a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy....”. Specific proposals include updating forms CR-170, CR-191, and CR-220 for technical corrections and formatting updates.</p> <p><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p><b>Fiscal Impact/Resources:</b> Committee staff</p> <p><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment.</p> <p><b>AC Collaboration:</b> None.</p>	
5.	<p><b>Implementation of Welfare and Institutions Code section 1731.7, Transition-Age Youth Pilot Project</b></p> <p><b>Project Summary:</b> Collaborate with the Family and Juvenile Law Advisory Committee on issues related to the Transition-Age Youth Pilot Project, which diverts a limited number of young adults who have committed specified crimes from adult prison to a juvenile facility; propose rules and forms as may be appropriate for the council’s consideration.</p> <p><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p><b>Fiscal Impact/Resources:</b> Committee staff</p> <p><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment.</p> <p><b>AC Collaboration:</b> Family and Juvenile Law Advisory Committee</p>	<p><b>Priority 1(b)</b></p>

#	New or One-Time Projects <sup>3</sup>	
6.	<b><i>Amend California Rules of Court, rule 4.130, mental competency proceedings, to incorporate legislative changes made by AB 1810</i></b>	<b><i>Priority 1(b)</i></b>
<p><b><i>Project Summary:</i></b> Amend California Rules of Court, rule 4.130, mental competency proceedings, to implement AB 1810 (Committee on Budget; Stats. 2018, ch. 34). Among other changes, AB 1810 authorizes a court to revisit a defendant’s competency to stand trial if there is a belief that the defendant has regained competency while awaiting transfer to the Department of State Hospitals for restoration after previously being found incompetent, and also authorizes diversion for defendants found to be mentally incompetent based on eligibility criteria.</p> <p><b><i>Status/Timeline:</i></b> January 1, 2020 effective date</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> All draft proposals will circulate for public comment.</p> <p><b><i>AC Collaboration:</i></b> None</p>		
7.	<b><i>Proof of service form</i></b>	<b><i>Priority 1(e)</i></b>
<p><b><i>Project Summary:</i></b> Develop a proof of service form for use in criminal proceedings.</p> <p><b><i>Status/Timeline:</i></b> January 1, 2020 effective date</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> All draft proposals will circulate for public comment.</p> <p><b><i>AC Collaboration:</i></b> Consultation with Court Executives Advisory Committee</p>		

#	<b>New or One-Time Projects<sup>3</sup></b>	
8.	<b><i>Confidentiality of experts' reports in mental competency proceedings</i></b>	<b><i>Priority 1(e)</i></b>
<p><b><i>Project Summary:</i></b> Consider whether to recommend rule or legislative changes addressing the confidentiality of court-appointed experts' reports on a criminal defendant's competency to stand trial.</p> <p><b><i>Status/Timeline:</i></b> January 1, 2020 effective date</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> All draft proposals will circulate for public comment.</p> <p><b><i>AC Collaboration:</i></b> None</p>		
9.	<b><i>Amend California Rules of Court, rule 4.551, habeas corpus proceedings</i></b>	<b><i>Priority 1(f)</i></b>
<p><b><i>Project Summary:</i></b> Consider whether to recommend rule change requiring habeas corpus petitions filed in the superior court to contain copies of any petition pertaining to the same judgment and petitioner that was previously filed in any state court or any federal court, similar to California Rules of Court, rule 8.384(b)(1).</p> <p><b><i>Status/Timeline:</i></b> January 1, 2020 effective date</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> All draft proposals will circulate for public comment.</p> <p><b><i>AC Collaboration:</i></b> None</p>		

#	<b>New or One-Time Projects<sup>3</sup></b>	
10.	<p data-bbox="268 217 1602 253"><i>Monitor implementation of SB 384, sex offenders: registration</i></p> <p data-bbox="268 347 1940 418"><b>Project Summary:</b> Monitor implementation efforts of SB 384, sex offenders: registration (Wiener; Stats. 2017, ch. 541) and assist criminal courts with any required implementation.</p> <p data-bbox="268 467 905 500"><b>Status/Timeline:</b> SB 384 goes into effect in 2021</p> <p data-bbox="268 542 827 574"><b>Fiscal Impact/Resources:</b> Committee staff</p> <p data-bbox="268 607 1121 639"><b>Internal/External Stakeholders:</b> California Department of Justice</p> <p data-bbox="268 682 596 714"><b>AC Collaboration:</b> None</p>	<p data-bbox="1619 217 1751 250"><b>Priority 2</b></p>
11.	<p data-bbox="268 766 1010 799"><i>Amend CR-184, order for dismissal (military personnel)</i></p> <p data-bbox="268 899 1898 971"><b>Project Summary:</b> Amend CR-184, order for dismissal (military personnel), to reflect that misdemeanors are eligible for relief under Penal Code section 1170.9(h).</p> <p data-bbox="268 1013 884 1045"><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p data-bbox="268 1088 827 1120"><b>Fiscal Impact/Resources:</b> Committee staff</p> <p data-bbox="268 1159 1381 1192"><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment.</p> <p data-bbox="268 1234 596 1266"><b>AC Collaboration:</b> None</p>	<p data-bbox="1619 766 1787 799"><b>Priority 2(a)</b></p>

#	<b>New or One-Time Projects<sup>3</sup></b>	
12.	<i>Implementation of Penal Code section 236.14, vacatur relief for human trafficking victims</i>	<i>Priority 2(a)</i>
<p><b>Project Summary:</b> Consider whether to recommend rule or forms to implement Penal Code section 236.14, vacatur relief for human trafficking victims.</p> <p><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p><b>Fiscal Impact/Resources:</b> Committee staff</p> <p><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment, including related stakeholders.</p> <p><b>AC Collaboration:</b> None</p>		
13.	<i>Interpreter’s Statement</i>	<i>Priority 2(b)</i>
<p><b>Project Summary:</b> Review the interpreter’s statement in CR-101 (felony plea form) and CR-102 (misdemeanor domestic violence plea form) and propose appropriate amendments for the council’s consideration.</p> <p><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p><b>Fiscal Impact/Resources:</b> Committee staff</p> <p><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment.</p> <p><b>AC Collaboration:</b> Court Interpreters Advisory Panel</p>		



#	New or One-Time Projects <sup>3</sup>	
14.	<i>User-centered revisions to forms</i>	<i>Priority 2(b)</i>
	<p><b>Project Summary:</b> Review criminal forms to determine whether user-centered revisions are appropriate, such as converting a form into “plain language,” developing accompanying information sheets, or translating a form to other languages.</p> <p><b>Status/Timeline:</b> January 1, 2020 effective date</p> <p><b>Fiscal Impact/Resources:</b> Committee staff</p> <p><b>Internal/External Stakeholders:</b> All draft proposals will circulate for public comment.</p> <p><b>AC Collaboration:</b> Advisory Committee on Providing Access and Fairness</p>	

#	Ongoing Projects and Activities	
1.	<i>Review recently enacted legislation</i>	<i>Priority 1</i>
	<p><b>Project Summary:</b> Review enacted legislation that may have an impact on criminal court administration and propose rules and forms as may be appropriate for implementation of the legislation.</p> <p><b>Status/Timeline:</b> Ongoing</p> <p><b>Fiscal Impact/Resources:</b> Committee staff, Office of Governmental Affairs</p> <p><b>Internal/External Stakeholders:</b> None</p> <p><b>AC Collaboration:</b> None</p>	

#	Ongoing Projects and Activities	
2.	<p data-bbox="268 215 630 251"><i>Review pending legislation</i></p> <p data-bbox="268 347 1940 418"><b>Project Summary:</b> Review pending criminal law legislation and make recommendations as to whether the Judicial Council should support or oppose the legislation. Provide subject matter expertise on pending criminal law legislation.</p> <p data-bbox="268 466 613 501"><b>Status/Timeline:</b> Ongoing</p> <p data-bbox="268 548 1245 584"><b>Fiscal Impact/Resources:</b> Committee staff, Office of Governmental Affairs</p> <p data-bbox="268 618 772 654"><b>Internal/External Stakeholders:</b> None</p> <p data-bbox="268 693 596 729"><b>AC Collaboration:</b> None</p>	<p data-bbox="1654 215 1785 251"><i>Priority 1</i></p>
3.	<p data-bbox="268 792 735 828"><i>Criminal justice and mental health</i></p> <p data-bbox="268 930 1940 1070"><b>Project Summary:</b> Review pending legislation related to criminal justice and mental health, and make recommendations as to whether the Judicial Council should support or oppose the legislation. Provide subject matter expertise on pending criminal justice and mental health legislation and related issues. Propose rules and forms to assist courts with mental health issues arising in criminal cases.</p> <p data-bbox="268 1122 613 1157"><b>Status/Timeline:</b> Ongoing</p> <p data-bbox="268 1205 827 1240"><b>Fiscal Impact/Resources:</b> Committee staff</p> <p data-bbox="268 1274 772 1310"><b>Internal/External Stakeholders:</b> None</p> <p data-bbox="268 1349 1163 1385"><b>AC Collaboration:</b> Collaborative Justice Courts Advisory Committee</p>	<p data-bbox="1654 792 1785 828"><i>Priority 1</i></p>

#	Ongoing Projects and Activities	
4.	<i>Working Group Participation</i>	<i>Priority 2</i>
<p><b><i>Project Summary:</i></b> Continue participation in the Protective Orders Working Group, which assists in ensuring consistency and uniformity in the different protective orders used in family, juvenile, civil, criminal, and probate proceedings, and helps to develop and update protective order forms and rules of court.</p> <p><b><i>Status/Timeline:</i></b> Ongoing</p> <p><b><i>Fiscal Impact/Resources:</i></b> Committee staff</p> <p><b><i>Internal/External Stakeholders:</i></b> None</p> <p><b><i>AC Collaboration:</i></b> Rules and Projects Committee, Family and Juvenile Law Advisory Committee, Civil and Small Claims Advisory Committee, Probate and Mental Health Advisory Committee, Information Technology Advisory Committee</p>		

### III. LIST OF 2018 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	<b>Rules and forms to implement recently enacted legislation:</b> At its September 2018 meeting, the Judicial Council approved revisions to CR-180 and CR-181, implementing Penal Code section 1203.42; approve CR-404 and CR-405, implementing Penal Code section 1170.22; approve CR-409, CR-409-INFO, and CR-410, implementing Penal Code section 851.91, and adopt Cal. Rule of Court, 4.131, implementing Penal Code section 1368.1(a)(2).
2.	<b>Pending criminal legislation:</b> The committee provided subject matter expertise on numerous pending criminal law bills, and reviewed and recommended positions on numerous pending criminal law bills.
3.	<b>Mental health:</b> The committee submitted public comments to proposed Department of State Hospitals regulations regarding competency related issues; provided subject matter expertise on numerous pending criminal law bills involving mental health issues; reviewed and recommended positions on numerous pending criminal law bills involving mental health issues.
4.	<b>Petition for writ of habeas corpus:</b> At its September 2018 meeting, the Judicial Council approved revisions to form HC-001 (formerly MC-275), petition for writ of habeas corpus, to incorporate changes in applicable procedure and law.