

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT  
LEG14-05

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Title	Action Requested
Proposed Legislation (Criminal Procedure): Appeals of the Imposition or Calculation of Fines and Fees	Review and submit comments by June 18, 2014
Proposed Rules, Forms, Standards, or Statutes Add Penal Code section 1237.2; amend Penal Code section 1237	Proposed Effective Date January 1, 2016
Proposed by Criminal Law Advisory Committee Hon. Tricia A. Bigelow, Chair	Contact Arturo Castro, 415-865-7702 arturo.castro@jud.ca.gov

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**Executive Summary and Origin**

The Criminal Law Advisory Committee proposes amending Penal Code section 1237 and adding section 1237.2 to prohibit appeals based solely on the grounds of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or, if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court. This proposal was developed at the request of criminal law judges and court executive officers to reduce the burdens associated with formal appeals and resentencing proceedings stemming from a common sentencing error.

**Background**

The statutory scheme that governs the imposition and calculation of fines and other costs in California criminal cases is vast, complex, and frequently modified by the Legislature. As a result, the erroneous imposition or calculation of fines and other costs is a fairly common sentencing error that appellate courts are frequently called upon to correct. (See, e.g., *People v. Hamed* (2013) 221 Cal.App.4th 928, 939.)

When a sentencing error is the sole issue on appeal, trial and appellate courts must incur significant costs and burdens associated with preparation of the formal record on appeal and resulting resentencing proceedings. This issue, however, may easily be resolved if *first* raised in

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

the trial court, which has ready access to the court records and other information necessary to review and resolve case-by-case disputes.

### **The Proposal**

To relieve trial and appellate courts of the costs and burdens associated with formal appeals and resentencing proceedings stemming from a common sentencing error, the Criminal Law Advisory Committee proposes amending Penal Code section 1237 and adding section 1237.2 to prohibit appeals based solely on the grounds of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or, if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court.

Because the court records and other information necessary to resolve these disputes are readily available to trial courts, the committee believes that requiring the defendant to *first* attempt to resolve these issues in the trial court via a motion for correction would promote judicial economy and efficiency by obviating the costs and burdens associated with a formal appeal. Because those economies would not be achieved if the defendant also raises other issues on appeal, this proposal would be limited to instances in which the sentencing error was the *sole* issue on appeal.

The proposal is modeled after Penal Code section 1237.1, which similarly limits appeals based on errors in the calculation of presentence custody credits. Although not expressly stated in section 1237.1, the appeal limitations of that section only apply in cases in which custody credits are the sole issue on appeal. (*People v. Acosta* (1996) 48 Cal.App.4th 411, 426-27 [limiting section 1237.1 to cases in which custody credits are the sole issue on appeal makes “sound economic sense” and likely limits unwarranted expenditures of public money].)

### **Alternatives Considered**

None

### **Implementation Requirements, Costs, and Operational Impacts**

No significant implementation requirements, costs, or operational impacts are expected. As described above, the proposal is designed to reduce the costs and burdens associated with appeals and resentencing proceedings by promoting resolution of minor sentencing disputes in the sentencing courts.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Will the proposal require any new procedures for trial courts? If so, please describe and quantify any resulting additional costs.
- Would 12 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachment**

1. The text of the proposed legislation is attached at page 4.

Penal Code section 1237 would be amended to read:

1    An appeal may be taken by the defendant:

2  
3    (a) From a final judgment of conviction except as provided in Section 1237.1, Section 1237.2,  
4    and Section 1237.5. A sentence, an order granting probation, or the commitment of a defendant  
5    for insanity, the indeterminate commitment of a defendant as a mentally disordered sex offender,  
6    or the commitment of a defendant for controlled substance addiction shall be deemed to be a  
7    final judgment within the meaning of this section. Upon appeal from a final judgment the court  
8    may review any order denying a motion for a new trial.

9  
10   (b) From any order made after judgment, affecting the substantial rights of the party.

11   *Penal Code section 1237.2 would be added to read:*

12   § 1237.2. Imposition or calculation of fines, penalty assessments, surcharges, fees, or costs

13  
14   No appeal shall be taken by the defendant from a judgment of conviction on the ground of an  
15   error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs  
16   unless the defendant first presents the claim in the trial court at the time of sentencing, or, if the  
17   error is not discovered until after sentencing, the defendant first makes a motion for correction in  
18   the trial court. This section shall only apply in cases where the erroneous imposition or  
19   calculation of fines, penalty assessments, surcharges, fees, or costs is the sole issue on appeal.