

Criminal Law Advisory Committee
Annual Agenda¹—2022
Approved by Rules Committee: November 2, 2021

I. COMMITTEE INFORMATION

Chair:	Hon. Brian M. Hoffstadt, Chair; Hon. Lisa Rodriguez, Vice Chair
Lead Staff:	Sarah Fleischer-Ihn, Attorney, Criminal Justice Services Office
Committee's Charge/Membership: Rule 10.42(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. Rule 10.42(b) sets forth the membership categories of the committee. The Criminal Law Advisory Committee currently has 21 voting members. The current committee roster is available on the committee's webpage.	
Subcommittees/Working Groups²: 1. Protective Orders Working Group (POWG)	
Meetings Planned for 2022³ (Advisory body and all subcommittees and working groups) Date/Time/Location or Teleconference: <ul style="list-style-type: none">• January 2022 (teleconference to discuss and review spring cycle proposals)• February/March 2022 (teleconference to discuss and review spring cycle proposals and discuss pending legislation)• April 2022 (teleconference to discuss pending legislation)• May 2022 (teleconference to discuss pending legislation)• June 2022 (teleconference to discuss pending legislation)	

¹ 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.

² 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.

³ Refer to [Operating Standards for Judicial Council Advisory Bodies](#) for governance on in-person meetings.

- July 2022 (teleconference to make final recommendations on spring cycle proposals and discuss pending legislation)
- August 2022 (teleconference to discuss pending legislation)
- September 2022 (teleconference to discuss pending legislation)
- November 2022 (teleconference to discuss spring cycle proposals)
- Other teleconference meetings as needed to address urgent items

Check here if exception to policy is granted by Executive Office or rule of court.

DRAFT

COMMITTEE PROJECTS

#	New or One-Time Projects ⁴	
1.	<i>Placeholder for projects assigned by the Ad-Hoc Workgroup on Post-Pandemic Initiatives (P3)</i>	<i>Priority 1⁵</i> <i>Strategic Plan Goal III, IV⁶</i>
<p>Project Summary⁷: The Ad Hoc Workgroup on Post-Pandemic Initiatives (P3) is currently working to identify successful court practices that emerged during the COVID-19 pandemic. P3 recommendations may be referred to specific advisory bodies for development and/or implementation.</p> <p>Status/Timeline: TBD</p> <p>Fiscal Impact/Resources: None anticipated</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: TBD</p> <p>AC Collaboration: TBD</p>		

⁴ 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.

⁵ 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.

⁶ Indicate which goal number of The Strategic Plan for California’s Judicial Branch the project most closely aligns.

⁷ A key objective is a strategic aim, purpose, or “end of action” to be achieved for the coming year.

#	New or One-Time Projects⁴	
2.	<i>Review recently enacted legislation that may have an impact on criminal court administration</i>	<i>Priority 1(a), 1(b)⁵</i> <i>Strategic Plan Goal I⁶</i>
<p><i>Project Summary⁷</i>: Recently enacted legislation, effective January 1, 2022, requires new or revised forms and new or amended rules of court, including:</p> <ul style="list-style-type: none"> • Amending rule 4.530 (intercounty transfer of probation and mandatory supervision cases) to reflect amendments to Penal Code section 1203.9 by AB 177 and new reporting requirements for probation transfers under AB 898 • Revising form CR-187 (motion to vacate conviction or sentence) to reflect that relief is available to convictions and sentences under AB 1259 • Repealing rules 4.300 and 4.453 (commitments to nonpenal institutions) to reflect changes to Welfare and Institutions Code section 1731.5 under SB 92 • Amending rule 4.130 (mental competency proceedings) to reflect changes to misdemeanor incompetent to stand trial cases under SB 317 <p><i>Status/Timeline:</i> Anticipated effective date of January 1, 2023</p> <p><i>Fiscal Impact/Resources:</i> Revised forms may require CMS changes by the courts.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><i>Internal/External Stakeholders:</i> Justice system partners</p> <p><i>AC Collaboration:</i> None</p>		
3.	<i>Amend felony sentencing rules</i>	<i>Priority 1(a), 1(b)⁵</i> <i>Strategic Plan Goal I⁶</i>
<p><i>Project Summary⁷</i>: Effective January 1, 2022, Assembly Bill 124 and Senate Bill 567 amend Penal Code section 1170, and Senate Bill 81 amends Penal Code section 1385 on felony sentencing. These changes require amendments to rules of court on felony sentencing, including rules 4.405 (definitions), 4.406 (statement of reasons), 4.408 (listing of factors not exclusive; sequence not significant), 4.420 (selection of term of imprisonment), 4.421 (circumstances in aggravation), 4.422 (circumstances in mitigation), 4.428 (factors affecting imposition of enhancements), 4.433 (matters to be considered at sentencing), and 4.437 (statements in aggravation or mitigation).</p> <p><i>Status/Timeline:</i> Anticipated effective date of January 1, 2023</p>		

#	New or One-Time Projects⁴	
	<p>Fiscal Impact/Resources: None</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Justice system partners</p> <p>AC Collaboration: None</p>	
4.	<p>Amend Cal. Rules of Court, rule 2.507, electronic access to court calendars, indexes, and registers of actions</p>	<p>Priority 1(e), 2(b)⁵</p> <p>Strategic Plan Goal I, III⁶</p>
	<p>Project Summary⁷: The committee will consider the possibility of amending rule 2.507 in response to <i>All of Us or None - Riverside Chapter v. Hamrick</i> (2021) 64 Cal.App.5th 751, reh’g denied (June 17, 2021), review denied (Sept. 1, 2021), holding that the requirement in rule 2.507 that a defendant’s birthdate be excluded from courts’ indexes also prohibited public searches of the electronic court index using a birthdate.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2023</p> <p>Fiscal Impact/Resources: May result in cost savings to the courts.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Professional Background Screening Association, reentry advocates</p> <p>AC Collaboration: Information Technology Advisory Committee</p>	
5.	<p>Revise mandatory forms - Criminal Protective Order – Domestic Violence (form CR-160), Criminal Protective Order – Other Than Domestic Violence (form CR-161), and Order to Surrender Firearms in Domestic Violence Case (form CR-162)</p>	<p>Priority 1(f), 2(b)⁵</p> <p>Strategic Plan Goal III, IV⁶</p>

#	New or One-Time Projects⁴	
	<p>Project Summary⁷: The committee will consider amendments to 1) increase accessibility of the forms, 2) change references to the sex of the restrained person to gender, and consider a nonbinary gender option; 3) add additional identification data fields for protected persons; 4) add additional identification data fields for animals granted to the protected person for care, possession, and control; 5) reflect current law, including the requirement to prioritize enforcement of protective orders in pending cases involving specified sex offenses and offenses requiring sex offender registration (AB 1498 (Stats. 2014, ch. 665)), further defining “coercive control” (SB 1141 (Stats. 2020, ch. 245)), and clarifying firearm storage requirements (Family Code section 6389 and Code of Civil Procedure section 527.9); and 6) incorporate language similar to the civil domestic violence restraining orders to promote consistency.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2023</p> <p>Fiscal Impact/Resources: Revised forms may require CMS changes by the courts</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Justice system partners</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee</p>	
6.	Placeholder for Recommendations arising from the Report of Workgroup on Homelessness	<p>Priority TBD</p> <p>Strategic Plan Goal I, III⁶</p>
	<p>Project Summary⁷: The Chief Justice’s Workgroup on Homelessness will be presenting its report with recommendations to the Judicial Council at its November 2021 meeting. This is a placeholder item for any project that the council directs the advisory committee to work on from that report.</p> <p>Status/Timeline: TBD</p> <p>Fiscal Impact/Resources: TBD</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: TBD</p> <p>AC Collaboration: TBD</p>	

#	New or One-Time Projects ⁴

#	Ongoing Projects and Activities ⁴	
1.	Review recently enacted legislation	Priority 1⁵
		Strategic Plan Goal III⁶
<p>Project Summary⁷: 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>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Revised or new forms may require CMS changes by the courts <input type="checkbox"/> <i>The project includes allocations or distributions of funds to the courts, which have been reviewed and approved by Budget Service.</i></p> <p>Internal/External Stakeholders: Governmental Affairs</p> <p>AC Collaboration: None</p>		
2.	Review pending legislation	Priority 1⁵
		Strategic Plan Goal III⁶
<p>Project Summary⁷: 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>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: None <input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Governmental Affairs</p>		

# Ongoing Projects and Activities⁴	
	<i>AC Collaboration:</i> None
3.	<p><i>Criminal justice and mental health</i></p> <p><i>Priority 1⁵</i></p> <p><i>Strategic Plan Goal III, IV⁶</i></p>
<p><i>Project Summary⁷:</i> Review pending legislation related to criminal justice and mental health, make recommendations as to whether the Judicial Council should support or oppose the legislation, and provide subject matter expertise on pending criminal justice and mental health legislation and related issues.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><i>Internal/External Stakeholders:</i> Governmental Affairs</p> <p><i>AC Collaboration:</i> Collaborative Justice Courts Advisory Committee</p>	
4.	<p><i>Provide subject matter expertise for other advisory committees</i></p> <p><i>Priority 2⁵</i></p> <p><i>Strategic Plan Goal III⁶</i></p>
<p><i>Project Summary⁷:</i> Provide subject matter expertise for other advisory committees and working groups developing proposals involving or relevant to criminal law and procedure.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p>	

#	Ongoing Projects and Activities⁴	
	<p>Internal/External Stakeholders: Governmental Affairs</p> <p>AC Collaboration: Information Technology Advisory Committee, Traffic Advisory Committee; other Judicial Council advisory committees and working groups</p>	
5.	<p>Participate in the Protective Orders Working Group</p>	<p>Priority 1⁵</p> <p>Strategic Plan Goal III, IV⁶</p>
	<p>Project Summary⁷: 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>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: None</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee, Civil and Small Claims Advisory Committee, Probate and Mental Health Advisory Committee, Information Technology Advisory Committee</p>	

II. LIST OF 2021 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	<i>Develop a proposal on remote criminal proceedings.</i> It is anticipated that at its January 2022 meeting, the Judicial Council will approve a legislative proposal to amend Penal Code sections 977, 1043, 1043.5, 1148, and 1193, and to enact Penal Code section 977.3. The proposed legislation would provide statutory authority for remote appearances in criminal proceedings, provide statutory authority for courts to order the personal presence of a misdemeanor defendant, and expand a defendant’s right to waive personal presence in a felony case.
2.	<i>Develop forms to implement AB 2147, Convictions: expungement: incarcerated individual hand crews.</i> At its October 2021 meeting, the Judicial Council approved four optional forms to implement AB 2147, which authorizes conviction relief for a petitioner who successfully participated as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation, and has been released from custody.
3.	<i>Revise Order for Commitment (Sexually Violent Predator) (form CR-173).</i> At its October 2021 meeting, the Judicial Council approved revisions to <i>Order for Commitment</i> (form CR-173) and revoke <i>Order for Extended Commitment</i> (form CR-174) to incorporate changes to the statutes governing sexually violent predator proceedings (Welf. & Inst. Code, § 6600 et seq.), replace gender-specific pronouns, and incorporate revisions for procedural efficiency, accuracy, and clarity.
4.	<i>Revise Plea Form, With Explanations and Waiver of Rights—Felony (form CR-101), regarding immigration advisement.</i> The committee circulated for public comment a proposal to revise the felony and misdemeanor plea form’s immigration advisement in light of <i>People v. Ruiz</i> (2020) 49 Cal.App.5th 1061. The committee is considering further revisions based on comments received and case law interpreting Penal Code section 1473.7.
5.	<i>Review pending legislation.</i> The committee provided subject matter expertise or a recommended position on over fifty criminal law bills, including AB 256 (Criminal procedure: discrimination); AB 333 (Participation in a criminal street gang: enhanced sentence); AB 1228 (Supervised persons: release); AB 1318 (Deferred entry of judgment pilot program); AB 1474 (Sentencing: consideration of costs); AB 1452 (Pilot program: increased fee for low-income jurors: criminal trials); AB 1540 (Criminal procedure: resentencing); SB 81 (Sentencing: dismissal of enhancements); SB 262 (Bail); SB 300 (Crimes: murder: punishment); SB 483 (Sentencing: resentencing to remove sentencing enhancements); and SB 775 (Felony murder: resentencing).
6.	<i>Provide subject matter expertise for other advisory committees.</i> The committee provided subject matter expertise to the Information Technology Advisory Committee on lodged electronic evidence and amendments to the rules of court on electronic filing and service.