



Judicial Council of California

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INVITATION TO COMMENT

SPR24-01

Title

Trial Courts: Standard 2.2 Diversion Reporting

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Stds. Jud. Admin., standard 2.2

Proposed Effective Date

January 1, 2025

Proposed by

Court Executives Advisory Committee
David Yamasaki, Chair
Judicial Branch Statistical Information System Subcommittee
Jake Chatters, Chair

Contact

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Executive Summary and Origin

The Court Executives Advisory Committee proposes that the Judicial Council amend standard 2.2 of the California Standards of Judicial Administration, which gives guidance to trial courts on the types of matters that remove a case from court control for purposes of calculating computation of time. The standard calls out cases in drug diversion programs under Penal Code section 1000 et seq. but is unclear as to whether other types of diversion programs should be treated similarly. The issue was raised to the committee’s Judicial Branch Statistical Information System Subcommittee by a court seeking clarity on whether the time reporting guidelines for drug diversion programs under Penal Code 1000 et seq. were intended to apply to other types of diversion programs. Revising the language in the standard is intended to increase clarity and help ensure consistent data reporting.

Background

Diversion programs are “criminal justice interventions that try to address the root cause of what is driving criminal conduct and incentivize treatment and services. ... Upon successful

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

completion of diversion, defendants can avoid criminal convictions”¹ Defendants facing felony or misdemeanor charges may enter a diversion program either pretrial or postconviction, depending on the charges and nature of the case. Charges that qualify a defendant for a diversion program, and the various diversion programs themselves, are outlined in part 2, Of Criminal Procedure, title 6, Pleadings and Proceedings Before Trial, of the Penal Code. Figure 1 outlines the Penal Code’s 10 diversion programs.

Figure 1. Diversion programs established under part 2 of title 6 of the Penal Code

	Diversion Program	Penal Code
1	Drug Diversion Program	1000–1000.65
2	Cognitive Disability Diversion Program	1001.20–1001.34
3	Individuals with Mental Disorders Diversion Program	1001.35–1001.36
4	Traffic Violators Pretrial Diversion Program	1001.40
5	Misdemeanor Offenders Diversion Program	1001.50–1001.55
6	Bad Check Diversion Program	1001.60–1001.67
7	Parental Diversion Program	1001.70–1001.75
8	Military Diversion Program	1001.80
9	Theft and Repeat Theft Crimes Diversion Program	1001.81–1001.82
10	Primary Caregiver Diversion Program	1001.83

Standard 2.2 of the California Standards of Judicial Administration provides guidance on trial court case disposition time goals that are “intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts.” (Standard 2.2(b).) Adherence to the standard is based on the computation of time elapsed for case processing and is based on calculations of when cases enter, leave, or are restored to the court’s control. The definitions contained in standard 2.2 ensure that courts are reporting time data correctly and consistently. Standard 2.2(m) outlines the matters that remove a case from the court’s control, which affects the time calculations for case processing.

The Proposal

Standard 2.2(m)(2)(C) specifies removal of a felony or misdemeanor case from the court’s control pending completion of “diversion under Penal Code section 1000 et seq.” However, it is unclear whether “section 1000 et seq.” encompasses just the drug diversion programs in sections 1000–1000.65 or all subsequent sections of the Penal Code that describe diversion programs. Insufficient clarity may lead to inconsistent interpretation and data reporting. To ensure consistent calculation of time across all diversion proceedings, the Court Executives Advisory Committee recommends amending standard 2.2(m)(2)(C) to read “Pendency of completion of

¹ San Francisco District Attorney’s Office, *Understanding Diversion* (fact sheet, undated), <https://sfdistrictattorney.org/wp-content/uploads/2022/03/Diversion-Factsheet.pdf>.

any diversion program under part 2 of title 6 of the Penal Code (commencing with section 1000);”.

Alternatives Considered

As an alternative to amending standard 2.2(m)(2)(C), the Court Executives Advisory Committee considered the implications of maintaining the current language of the standard, which reads as “Pendency of completion of diversion under Penal Code section 1000 et seq.” Maintaining the current language could be read to mean that only drug-related diversion cases are eligible for removal from the court’s control and computation of time to disposition. The committee believed that the authors of the standard did not intend to treat drug diversion cases differently than cases in other types of diversion programs and that the standard should be applied uniformly to all types of diversion programs.

Fiscal and Operational Impacts

Amendment of standard 2.2(m)(2)(C) would have no major fiscal or operational impacts. If amended, courts would need to validate their data reporting to ensure that the change is implemented.

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 implementation matters:

- 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?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Stds. Jud. Admin., standard 2.2, at page 4

Standard 2.2 of the California Standards of Judicial Administration would be amended, effective January 1, 2025, to read:

1 **Standard 2.2. Trial court case disposition time goals**

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(m) Cases removed from court’s control excluded from computation of time

If a case is removed the court’s control, the period of time until the case is restored to court control should be excluded from the case disposition time goals. The matters that remove a case from the court’s control for the purposes of this section include:

(1) * * *

(2) *Felony or misdemeanor cases:*

(A)–(B) * * *

(C) Pendency of completion of any diversion program under part 2 of title 6 of the Penal Code (commencing with section 1000) ~~section 1000 et seq.~~

(D)–(J) * * *

(n) * * *