



Judicial Council of California

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MEMORANDUM

Date

February 2, 2024

Action Requested

Review and Approve

To

Members of the Court Executives Advisory
Committee

Deadline

N/A

From

Jake Chatters, Chair
Judicial Branch Statistical Information
System Subcommittee

Contact

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Subject

Amend Standard 2.2(m)(2)(C), Cal. Standards
of Judicial Administration

Executive Summary

The Judicial Branch Statistical Information System (JBSIS) Subcommittee recommends that the Court Executives Advisory Committee review and consider recommending that the Judicial Council amend standard 2.2(m)(2)(C) 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. Revising the language in the standard will increase clarity and help ensure consistent data reporting.

Recommendation

The JBSIS Subcommittee recommends that the Court Executives Advisory Committee make a recommendation to the Judicial Council to amend standard 2.2(m)(2)(C), which specifies the types of matters that remove a case from a court’s control and are excluded from computation of time. To ensure clarity that the standard should be applied to all diversion programs, standard 2.2(m)(2)(C) should be amended to read “Pendency of completion of diversion programs under Penal Code part 2, title 6.”

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 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 the Penal Code in Part 2, Criminal Procedure, Title 6, Pleadings and Proceedings Before Trial. Figure 1 outlines the 10 diversion programs described in the Penal Code.

Figure 1: Diversion programs described in Penal Code: part 2 title 6

	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

Issue

This issue was raised to the JBSIS Subcommittee by a court seeking clarity on whether the time reporting guidelines for drug diversion programs under Penal Code section 1000 were intended

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

to apply to other types of diversion programs, such as mental health diversion or military diversion.

The trial court case disposition time goals, contained in standard 2.2, are “intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts.”² Adherence to the standards 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 outlines the matters that remove a case from the court’s control, which affects the time calculations for case processing, and standard 2.2(m)(2)(C) specifies cases pending “diversion under Penal Code section 1000 et seq.,” which implies the drug diversion programs in sections 1000–1000.65. 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.

JBSIS Subcommittee Discussion and Analysis

The JBSIS Subcommittee considered this matter at its September 29, 2023, meeting. The committee concurred that, as written, standard 2.2(m)(2)(C) appeared to only reference drug-related diversion cases. The subcommittee discussed and agreed that all diversion programs should report time elapsed in the same way as drug diversion programs and that the standard should be revised for more clarity and consistency.

Alternatives Considered

The JBSIS Subcommittee considered the implications of maintaining the status quo, which would mean that only drug diversion cases would be eligible for removal from the court’s control and computation of time to disposition. The subcommittee believed that 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 in their data reporting.

² Cal. Stds. Jud. Admin., std. 2.2(b), www.courts.ca.gov/cms/rules/index.cfm?title=standards&linkid=standard2_2.