REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 24, 2012

Title
Criminal Procedure: Fingerprint Form

Agenda Item Type
Action Required

Rules, Forms, Standards, or Statutes Affected
Revise form CR-100

Effective Date
January 24, 2012

Recommended by
Criminal Law Advisory Committee
Hon. Steven Z. Perren, Chair

Date of Report
December 14, 2011

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Executive Summary

The Criminal Law Advisory Committee recommends that the Judicial Council approve revisions to the Judicial Council *Fingerprint Form* (form CR-100) as required by recent legislation that modified the fingerprint requirements under Penal Code section 992.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 24, 2012, approve the following revisions to *Fingerprint Form* (CR-100):

1. Delete the following instruction: "Immediately following the arraignment on an information or indictment, the defendant is required to provide a right thumbprint on this form"; and

2. Add the following instruction: "In any case in which the defendant is charged with a felony, the court must require the defendant to provide a right thumbprint on this from. Unless the court has obtained the thumbprint at an earlier proceeding, it must do so at the arraignment

on the information or indictment, or upon entry of a guilty or no contest plea under Penal Code section 859a."

The text of the proposed revisions to form CR-100 is attached at page 4.

Previous Council Action

The Judicial Council adopted form CR-100 for mandatory use in 1996. Although the form has been revised since adoption, the past revisions are unrelated.

Rationale for Recommendation

Revisions required by statute

Penal Code section 992 requires certain felony defendants to provide thumbprints on a form that courts must permanently maintain in the court file. Before January 1, 2012, Penal Code section 992(a) required courts to obtain the thumbprints "immediately following the arraignment in the superior court." Recent legislation,[1] however, amended section 992(a) effective January 1, 2012, to replace the above requirement with the following:

> Unless the court has obtained the thumbprint at an earlier proceeding, it shall do so at the arraignment on the information or indictment, or upon entry of guilty or no contest plea under Section 859a.

Form revision

The Judicial Council is required to "develop" a form to implement the thumbprint procedure. (Pen. Code, § 992(a)(2).) Because of the recent statutory amendment, the current Judicial Council *Fingerprint Form* (CR-100) contains an outdated instruction regarding when courts must obtain thumbprints. To update the form in response to the recent statutory amendment, the committee proposes replacing the outdated instruction with language that conforms to the new statutory requirement.

Comments, Alternatives Considered, and Policy Implications

This proposal has not circulated for public comment. The proposed revisions are designed to update the form in response to recent statutory changes that became effective on January 1, 2012. The revisions simply replace outdated language with the correct current statutory language. Because the proposed revisions are minor substantive changes that are unlikely to create controversy, consistent with rule 10.22(d)(2) of the California Rules of Court, the committee recommends Judicial Council approval without a public comment period to ensure availability for use by courts as soon as possible.

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[1] Senate Bill 428 (Strickland); Stats 2011; ch. 304, p. 92.

Implementation Requirements, Costs, and Operational Impacts

Expected costs are limited to the production of new forms. No implementation requirements or operational impacts are expected.

Attachments

1. Proposed revisions to *Fingerprint Form* (CR-100) at page 4.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR COURT USE ONLY

DRAFT ONLY
Not For Use

PEOPLE OF THE STATE OF CALIFORNIA

vs.

DEFENDANT:

FINGERPRINT FORM

CASE NUMBER:

INSTRUCTIONS

In any case in which the defendant is charged with a felony, the court must require the defendant to provide a right thumbprint on this form. Unless the court has obtained the thumbprint at an earlier proceeding, it must do so at the arraignment on the information or indictment, or upon entry of a guilty or no contest plea under Penal Code section 859a. In the event the defendant is convicted, this form is to be attached to the minute order reflecting the defendant's sentence and is permanently maintained in the court file. Please see Penal Code section 992 for further information, including what to do when the defendant is physically unable to give a right thumbprint.

For a proper imprint and durable record, this form should be printed on paper that meets California Department of Justice specifications: a 99–pound white tab card or 100–pound white tab stock 0.0070 inch thick (0.0066 through 0.0074 inch is acceptable). Paper smoothness should be 100–140 Sheffield units. The form should be printed with the grain left to right.

1. The box to the right contains the defendant's

   a. ☐ right thumbprint

   b. ☐ other print *(specify):*

2. The print was taken on *(date):*

3. The print was taken by

   a. Name:

   b. Position:

   c. Badge or serial number:

FINGERPRINT FORM

Penal Code, § 992

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