

## **Staff Memorandum 2026-16**

### **Overview of Proposed Staff Recommendations for 2026 Annual Report**

At its October 27, 2026 meeting, the Committee on Revision of the Penal Code will consider recommendations to include in its 2026 Annual Report. This memorandum provides a summary list of staff recommendations made throughout the year. The Committee should consider these recommendations and make a final decision on which recommendations should be included in the 2026 Annual Report.

For completeness, this list includes staff recommendations that will be discussed for the first time at the October 27, 2026, meeting.

Additional data and analysis for each recommendation are in the staff memorandums indicated in the relevant footnote.

Based on the Committee's decisions about the below recommendations, staff will prepare a draft Annual Report for the Committee's review at its November 2026 meeting.

### **Staff Recommendations for 2026 Annual Report**

#### **Record Clearance<sup>1</sup>**

- Notify new recipients of automatic record relief.
- Require courts to explain the denial of a discretionary relief petition.
- Harmonize sealing obligations after diversion is completed.
- Grant enhanced sealing to misdemeanor criminal records after automatic record relief.<sup>2</sup>

#### **Diversion<sup>3</sup>**

- Expand judicial diversion to low-level felonies.
- Allow DMV to assess points for vehicular-manslaughter diversion.
- Specify the evidence a court may consider for misdemeanor military diversion.
- Conduct a comprehensive mental health diversion study.
- Allow requests for mental health diversion to be made until sentencing.

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<sup>1</sup> For additional information, see Staff Memorandum 2026-07.

<sup>2</sup> For additional information, see Staff Memorandum 2026-10.

<sup>3</sup> For additional information, see Staff Memorandum 2026-07.

**Sentencing Enhancements, Aggravating Factors, Section 17(b) Reductions<sup>4</sup>**

- Direct Judicial Council to update the aggravating factors in the Rules of Court.
- Unify procedures for establishing facts that increase punishment.
- Clarify that the same fact may not be used both for upper-term sentencing and Three Strikes sentencing.
- Create a presumption of misdemeanor reduction for property offense and drug possession wobblers.
- Authorize, but not require, reclassification of sex offender registration tier when a section 17(b) reduction is granted.
- Repeal the 10-20-life firearm enhancement.
- Repeal the nickel prior enhancement.
- Specify a court's jurisdiction to address unauthorized sentences identified by CDCR Case Records.
- Create a separate statutory offense for first-degree burglary with a person present.

**Bail and Pretrial Release<sup>5</sup>**

- End the use of cash bail.
- Require county schedules to include cite and release, book and release, and judicial review for appropriate offenses, including serious and violent offenses.
- Implement *Kowalczyk* with statewide uniformity and consistency.
- Amend Penal Code § 1270.2 so that a 5-day review is meaningful.
- Mandate that counties employ a court reminder program.

**Other Recommendations<sup>6</sup>**

- Expand the Alternative Custody Program

Respectfully submitted,

Thomas M. Nosewicz  
Legal Director

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<sup>4</sup> For additional information, see Staff Memorandum 2026-11.

<sup>5</sup> For additional information, see Staff Memorandum 2026-09.

<sup>6</sup> For additional information, see Staff Memorandum 2026-13.