



Chambers of
CHARLES MARGINES
PRESIDING JUDGE

Superior Court of California County of Orange

700 CIVIC CENTER DRIVE, WEST
DEPARTMENT C1
SANTA ANA, CA 92701

August 23, 2018

Administrative Order No. 18/04

MENTAL HEALTH DIVERSION
Penal Code Section 1001.36

AB 1810 was signed by the Governor on June 26, 2018 and became law effective immediately. It added section 1001.36 to the Penal Code which establishes a diversion procedure for defendants with mental disorders. The statute authorizes courts to grant pretrial diversion on an accusatory pleading alleging the commission of a misdemeanor or felony offense. A condition of diversion is that defendants undergo mental health treatment for a period no longer than two years.

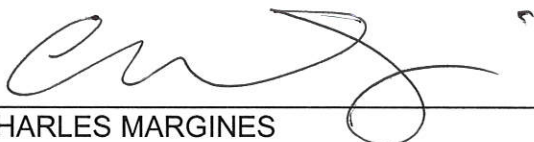
Penal Code section 1001.36 does not address how a request for mental health diversion is to be brought before the court. Section 1001.36 proceedings involve a request for a court order. A request for an order is a motion. (Code Civ. Proc., § 1003; *CEB Crim. Law Prac. & Procedure* (2016) § 18.1; Cal. Rules of Court, rule 4.111; OCSC Local Rules Div. 8.) The court has inherent authority to control the proceedings before it and to formulate rules of practice and procedure where justice demands it (See Code Civ. Proc., §§ 128 and 187; *Rutherford v. Owens-Illinois, Inc.* (1997) 16 Cal.4th 953, 967.)

IT IS ORDERED that, effective immediately, mental health diversion motions shall be submitted to the court in writing and filed as follows:

1. Motions in felony cases shall be filed in Department C5.
2. Motions in misdemeanor cases shall include a proposed treatment plan and be filed in the master calendar department at the assigned justice center.

IT IS SO ORDERED.

Dated this 23rd day of August, 2018.



CHARLES MARGINES
Presiding Judge