

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 898 (Lee) – As Amended April 5, 2021

Policy Committee: Public Safety

Vote: 8 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill requires the Department of Justice (DOJ), in cases where probation has been transferred from one county to another, to electronically submit notice of conviction record relief to both the transferring court and any subsequent receiving court.

Specifically, this bill:

- 1) Requires a receiving court that reduces a felony to a misdemeanor or dismisses a conviction to provide a disposition report to DOJ with the original case number from the transferring court. DOJ must then electronically submit a notice to the court that sentenced the defendant.
- 2) Provides that if probation was transferred multiple times, DOJ must electronically submit notice to all involved courts.
- 3) Requires any court receiving notice of a reduction or dismissal to update its records to reflect the same.
- 4) Requires a prosecuting attorney or probation department, in either the receiving county or transferring county, seeking to file a petition to prohibit DOJ from granting automatic conviction record relief, to file the petition in the county of current jurisdiction.
- 5) Requires DOJ, in cases where relief is denied, to electronically submit notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts. Requires DOJ to provide similar notice if relief is subsequently granted.
- 6) Requires the receiving court to provide a receipt of records from the transferring court, including the new case number.
- 7) Provides that the transferring court must report to the DOJ that probation was transferred and identify the receiving court and new case number, if applicable.

**FISCAL EFFECT:**

- 1) No additional costs to Judicial Council for trial courts to update records to reflect any change to a conviction from another court.

- 2) One-time costs (General Fund (GF)) of \$460,000 in fiscal year (FY) 2021-22, \$1.4 million dollars in FY 2022-23 and \$1.2 million dollars in FY 2023-24 to the DOJ for increased staff and information technology (IT) infrastructure to identify and track out-of-county probation transfers. DOJ notes, since it does not currently have the technological infrastructure to implement the requirements of this bill, it would need two to three fiscal years of funding and delayed implementation. Additional costs (GF) of \$130,000 in FY 2021-22, \$261,000 in FY 2022-23 and \$174,000 in FY 2023-24 for California Department of Technology (CDT) oversight of new IT maintenance and operations.

#### COMMENTS:

- 1) Purpose. According to the author:

AB 898 will ensure that expungements and reductions of felonies to misdemeanors are correctly represented on a person's record if there are multiple courts involved. Currently, inaccurate publicly accessible information about a person's conviction can linger after automatic relief is granted, which can make it difficult for people to obtain employment and housing

- 2) **Automatic Conviction Relief.** In 2019, the Legislature enacted AB 1076 (Ting), Chapter 578, Statutes of 2018, which required DOJ to review convictions in its summary criminal history database for any crimes occurring after January 1, 2021, that may be eligible for expungement or removal from the database in accordance with statutory changes to sentencing law, as well as Proposition 47 and Proposition 64. However, DOJ's summary criminal history database is often missing important disposition information, especially in regards to low-level arrests and probation violations. This bill requires DOJ, when a person's grant of probation is transferred from one county to another, to notify both counties when a person's conviction is reduced from a felony to a misdemeanor or their conviction is otherwise reduced to notify both the transferring court and receiving court. DOJ notes, given it does not currently have the IT systems in place to notify counties transferring probation when a person's conviction is reduced to expunged, the requirements of this bill may delay implementation of AB 1076.

- 3) **Argument in Support.** According to the Judicial Council of California:

Because DOJ has disposition information only from the county of conviction (the transferring court), if a probation transfer case is granted automatic relief in the transferring court and the receiving court is not notified, the receiving court may have inaccurate publicly accessible conviction documents in its case file. AB 898 addresses this issue by requiring probation transfers to be reported to DOJ and the DOJ, in turn, to provide notification of reductions of felonies to misdemeanors and dismissals of convictions in probation transfer cases between receiving courts and transferring courts.

- 4) **Prior Legislation.** AB 1076, Chapter 578, Statutes of 2019, requires DOJ, as of January 1, 2021, to review its criminal justice databases on a weekly basis and to identify persons who are eligible for relief by having either their arrest records or conviction records withheld from disclosure.

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