

ASSEMBLY THIRD READING

AB 898 (Lee)

As Amended April 5, 2021

Majority vote

SUMMARY

Provides that if probation is transferred to another county, and a prosecutor or probation department in either county is seeking to file a petition to prohibit the Department of Justice (DOJ) from granting automatic conviction record relief, the petition must be filed in the county of current jurisdiction, and expands notice provisions regarding conviction record relief to include probation transfer cases.

Major Provisions

- 1) Requires DOJ, in cases where probation has been transferred, to electronically submit notice of conviction record relief to both the transferring court and any subsequent receiving court.
- 2) Requires a receiving court that reduces a felony to a misdemeanor or dismisses a conviction under specified provisions to provide a disposition report to DOJ with the original case number from the transferring court; DOJ must electronically submit a notice to the court that sentenced the defendant.
- 3) Provides that if probation was transferred multiple times, DOJ must electronically submit notice to all involved courts.
- 4) States that any court receiving notice of a reduction or dismissal must update its records to reflect the same.
- 5) Prohibits a court receiving notification of dismissal, as specified, from disclosing information concerning the dismissed conviction except to the person whose conviction was dismissed or a criminal justice agency, as specified.
- 6) States that a prosecuting attorney or probation department, in either the receiving county or transferring county, seeking to file a petition to prohibit the department from granting automatic conviction record relief must file the petition in the county of current jurisdiction.
- 7) 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.
- 8) Requires the receiving court to provide a receipt of records from the transferring court, including the new case number.
- 9) 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.

COMMENTS

According to the Author

"No statutes or rules of court currently ensure that transferring and receiving courts communicate to ensure expungements and reductions of felonies to misdemeanors are correctly represented in both courts' records. Two courts become involved in a case if someone is charged in a different jurisdiction than where they live, or if they move. In these instances, the case needs to be transferred if the person is placed on formal probation. If one of the courts is not notified that someone is granted relief, publicly accessible conviction information may remain.

"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."

Arguments in Support

According to the California Public Defender's Association: "It is an unfortunate truth that a single arrest or conviction can act as a lifelong barrier to employment, housing, and education. The consequences of conviction are so significant, in fact, that these secondary effects are often far more severe than the actual punishment permitted by law.

"Recognizing that is not in our shared community's best interest to prevent those who have already served their time from pursuing their education, finding a job, or seeking stable housing, California has long allowed Californians convicted of specified offenses to apply to the court for the expungement of their prior conviction and the sealing of related court records.

"One problem with current expungement law is that it does not take into account the way in which conviction records are kept in California. A former defendant who was supervised in two courts for the same offense, for example, may have two sets of conviction records, making the expungement of only one court's records effectively useless.

"AB 898 addresses this issue by clarifying the expungement procedure so that a defendant who was supervised for the same expungeable [*sic*] offense in two different court systems will get both sets of records sealed following the grant of an expungement order."

Arguments in Opposition

None.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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.

VOTES

ASM PUBLIC SAFETY: 8-0-0

YES: Jones-Sawyer, Lackey, Bauer-Kahan, Quirk, Santiago, Seyarto, Wicks, Lee

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

UPDATED

VERSION: April 5, 2021

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