

## CONCURRENCE IN SENATE AMENDMENTS

AB 898 (Lee)

As Amended September 3, 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.

**Senate Amendments**

Double joint this bill with SB 731 (Durazo) and AB 1281 (Blanca Rubio), both of the current legislative session, to avoid chaptering out issues.

**COMMENTS**

As Passed in the Assembly, this bill:

- 1) Required 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) Required 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) Provided that if probation was transferred multiple times, DOJ must electronically submit notice to all involved courts.
- 4) Stated that any court receiving notice of a reduction or dismissal must update its records to reflect the same.
- 5) Prohibited 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) Stated 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) Required 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) Required the receiving court to provide a receipt of records from the transferring court, including the new case number.

- 9) Provided that the transferring court must report to the DOJ that probation was transferred and identify the receiving court and new case number, if applicable.

### **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**

According to the *Association of California School Administrators*: "This bill would require the Department of Justice, 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. This bill also amends Penal Code 1203.425, which excludes a court from disclosing information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency.

"Penal Code 1203.425 in its current form prohibits a superior court from disseminating records to the Commission on Teaching Credentialing (CTC) and local education agencies (LEAs) where a conviction has been dismissed pursuant to 1203.4 et seq. This statute change was initiated through Assemblymember Ting's AB 1076 (2019) and the implications of such were not caught by legislators, the larger education community, nor the Governor at that time. Without the ability to access conviction information, LEAs and the CTC cannot fulfill its legal duty to evaluate

whether volunteers, prospective or current educators with convictions are fit to serve in public schools among students. Now that we understand the full implications of this statute change, we cannot let a moment waste in rectifying this mistake."

## FISCAL COMMENTS

According to the Senate Appropriations Committee,

- 1) *DOJ*: The department reports costs of \$460,000 (and 1.0 personnel year (PY)) in fiscal year (FY) 2021-2022, \$1.353 million (and 3.0 PY) in FY 2022-2023, and \$1.237 million (and 3.0 PY) in FY 2023-2024 to carry out the requirements in this measure. (General Fund, special fund\*)
- 2) *Courts*: The Judicial Council indicates that this measure would not create any additional costs for the courts.

\*Fingerprint Fees Account

## 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

### ASSEMBLY FLOOR: 76-0-2

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

**ABS, ABST OR NV:** Frazier, Maienschein

### SENATE FLOOR: 38-0-2

**YES:** Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Eggman, Stern

## UPDATED

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