
THIRD READING

Bill No: AB 812
Author: Lowenthal (D), et al.
Amended: 9/5/25 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 7/8/25
AYES: Arreguin, Caballero, Gonzalez, Pérez, Wiener
NOES: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 57-4, 6/4/25 - See last page for vote

SUBJECT: Recall and resentencing: incarcerated firefighters

SOURCE: Initiate Justice

DIGEST: This bill requires the Department of Corrections and Rehabilitation (CDCR) to promulgate regulations regarding the referral of fire camp participants and incarcerated persons working at institutional firehouses for resentencing by July 1, 2027.

Senate Floor Amendments of 9/5/25 add a joint author.

ANALYSIS:

Existing law:

- 1) Establishes the California Conservation Camp program to be operated by CDCR in conjunction with Cal Fire to provide for training and use of inmates assigned to the camps to perform public conservation projects including, but not limited to, forest fire prevention and control, forest and watershed

management, recreation, fish and game management, soil conservation, and forest and watershed revegetation. (Public Resources Code (PRC) § 4951.)

- 2) Defines “California Conservation Camps” as any camps established for the purpose of receiving wards or incarcerated individuals who are committed to the custody of CDCR, and in which the work projects performed by the wards or incarcerated individuals are supervised by CDCR employees. (PRC § 4952.)
- 3) Provides that CDCR shall utilize incarcerated individuals and wards assigned to conservation camps in performing fire prevention, fire control, and other work of the department. (PRC § 4953, subd. (a).)
- 4) Provides that when a defendant has been convicted of a felony offense and imprisoned, the court may, on its own motion and within 120 days of the date of commitment, or at any time if the applicable sentencing laws at the time of original sentencing are subsequently changed by new statutory authority or case law, or any time upon the recommendation of the Secretary of CDCR or the Board of Parole Hearings (BPH) in the case of person incarcerated in state prison, the county correctional administrator in the case of a person incarcerated in county jail, the district attorney of the county in which the defendant was sentenced, or the Attorney General (AG) if the Department of Justice (DOJ) originally prosecuted the case, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if they had not previously been sentenced, whether or not the defendant is still in custody, provided the new sentence, if any, is not greater than the initial sentence. (Penal Code (PEN) § 1172.1, subd. (a)(1).)
- 5) Requires that the resentencing court apply the sentencing rules of the Judicial Council and apply any changes in law that reduce sentences or provide for judicial discretion so as to eliminate disparity of sentences and to promote uniformity of sentencing. (PEN § 1172.1, subd. (a)(2).)
- 6) Authorizes the resentencing court to, in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:
 - a) Reduce a defendant’s term of imprisonment by modifying the sentence; or,
 - b) Vacate the defendant’s conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense

was charged in the original pleading, and then resentence the defendant to a reduced term of imprisonment. (PEN § 1172.1, subd. (a)(3).)

- 7) Prohibits the court, if it has recalled the sentence on its own motion, from imposing a judgment on any necessarily included lesser offense or lesser related offense if the conviction was a result of a plea bargain without the concurrence of both the defendant and the District Attorney (DA) of the county in which the defendant was sentenced, or the AG if the DOJ originally prosecuted the case. (PEN § 1172.1, subd. (a)(4).)
- 8) Requires the court to consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant's risk for future violence, and evidence that reflects that circumstances have changed since the original sentencing so that continued incarceration is no longer in the interest of justice. (PEN § 1172.1, subd. (a)(5).)
- 9) Provides that evidence that the defendant's incarceration is no longer in the interest of justice includes, but is not limited to, evidence that the defendant's constitutional rights were violated in the proceedings related to the conviction or sentence at issue, and any other evidence that undermines the integrity of the underlying conviction or sentence. (PEN § 1172.1, subd. (a)(5).)
- 10) Requires the court to consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth, as defined, at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense. (PEN § 1172.1, subd. (a)(5).)
- 11) Requires the court to state on the record the reasons for its decision to grant or deny recall and resentencing. (PEN § 1172.1, subd. (a)(7).)
- 12) Provides that resentencing may be granted without a hearing upon stipulation by the parties. (PEN § 1172.1, subd. (a)(8).)

- 13) Prohibits a resentencing from being denied, or a stipulation rejected, without a hearing where the parties have an opportunity to address the basis for the intended denial or rejection. (PEN § 1172.1, subd. (a)(9).)
- 14) Specifies that if a resentencing request is from the Secretary of CDCR, BPH, a county correctional administrator, a DA, or the AG, all of the following apply:
 - a) The court must provide notice to the defendant and set a status conference within 30 days after the date that the court received the request. Requires the court's order setting the conference to also appoint counsel to represent the defendant; and,
 - b) There is a presumption favoring recall and resentencing of the defendant, which may only be overcome if a court finds the defendant is an unreasonable risk of danger to public safety, as defined. (PEN § 1172.1, subd. (b).)
- 15) Provides that a defendant is not entitled to file a petition seeking relief from the court, and the court is not required to respond if a defendant requests consideration for relief. (PEN § 1172.1, subd. (c).)

This bill:

- 1) Requires CDCR, no later than July 1, 2027, to promulgate regulations regarding the referral of current and former participants in the California Conservation Camp program and incarcerated persons working at institutional firehouses for resentencing that utilize the existing extraordinary conduct referral process and establish all of the following:
 - a) Authorize the referral for resentencing of eligible incarcerated persons who have two or more years remaining to serve in state prison on their sentence.
 - b) Prohibit the exclusion of individuals from resentencing consideration based solely on past or pending parole hearing dates.
 - c) Prohibit the imposition of a minimum time served requirement as a condition for resentencing consideration.
- 2) Includes legislative findings and declarations.

Background

CDCR, in cooperation with Cal Fire and the Los Angeles County Fire Department, jointly operates 35 conservation camps, commonly referred to as fire camps, in 25 counties across the state. Conservation Camp Program participants support state, local and federal government agencies as they respond to emergencies such as fires, floods, and other natural or manmade disasters, and complete community service projects when not assigned to an emergency. All fire camps are minimum-security facilities which are overseen by CDCR employees. Participants are supervised by Cal Fire staff when responding to a wildfire or working on a conservation project. (See <<https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/>.)

Incarcerated firefighters continue to play an integral role in the state's firefighting efforts, including in Los Angeles County earlier this year. (Keith Mizuguchi, *Inmate Firefighters Battling LA Fires Have Trouble Getting Firefighting Jobs After Release* (Jan. 15, 2025) available at <<https://www.kqed.org/news/12022277/inmate-firefighters-battling-la-fires-have-trouble-getting-firefighting-jobs-after-release> .) This bill is focused on the recall and resentencing of incarcerated firefighters "[i]n recognition of the vital role that incarcerated persons have played protecting the people and property of California from wildfires."

Recall and Resentencing. As a general matter, a court typically loses resentencing jurisdiction when the sentence begins. (*Dix v. Superior Court* (1991) 53 Cal.3d 442, 455.) In other words, once the defendant has been committed on a sentence pronounced by the court, the court no longer has the legal authority to increase, reduce, or otherwise alter the defendant's sentence. (*Ibid.*)

The Legislature has created limited statutory exceptions allowing a court to recall a sentence and resentence the defendant. Specifically, within 120 days of commitment for a felony conviction, the court may resentence the defendant as if it had never imposed sentence, provided the new sentence is not greater than the original sentence. The court is also authorized, at any time, to recall the sentence and commitment previously ordered and to resentence the defendant if the applicable sentencing laws at the time of original sentencing are subsequently changed by new statutory authority or case law. In addition, CDCR, BPH, the county correctional administrator, the DA of the county in which the defendant was sentenced, or the AG if the DOJ originally prosecuted the case, can make a recommendation for resentencing at any time. (Pen. Code, § 1172.1, subd. (a).)

Penal Code section 1172.1 requires a hearing to determine whether the person should be resentenced unless otherwise stipulated to by the parties.

When resentencing is recommended by one of the specified government entities statutorily authorized to do so, the court must provide notice to the defendant, set a status conference within 30 days of receiving the petition, and appoint counsel. A presumption in favor of resentencing applies to petitions submitted by government entities unless overcome by a finding by the court that the defendant poses an unreasonable risk to public safety. (PEN § 1172.1, subd. (b).) A defendant is not entitled to petition for recall and resentencing relief under Penal Code section 1172.1. (PEN § 1172.1, subd. (c).)

CDCR's Current Process for Selecting Individuals to Refer for Resentencing. CDCR has developed an internal process to identify and refer incarcerated individuals for recall and resentencing under Penal Code Section 1172.1. The department has identified three categories of individuals that it will consider referring for recall and resentencing: those with “exceptional conduct,” those whose sentences have some sort of discrepancy due to an error, and those with sentencing discrepancies as result of new legislation or case law. (CDCR, *Recall and Resentencing Referral* available at <<https://www.cdcr.ca.gov/family-resources/recall-resentencing/>>.) With respect to the “exceptional conduct” category, CDCR states:

These are incarcerated people who have demonstrated sustained compliance with departmental rules and have taken ownership of their own rehabilitation through prolonged participation in education, vocation, and self-help programs. Their conduct while incarcerated has inspired others and contributed to safer prisons for staff, visitors, volunteers and incarcerated people, in line with CDCR's mission to enhance public safety through safe and secure incarceration of individuals and rehabilitative strategies to successfully reintegrate them into our communities. (*Ibid.*)

CDCR excludes the following individuals from consideration for referral as a result of “exceptional conduct”: a person required to register as a tier 2 or 3 sex offender; a person who has not served at least 10 continuous years in CDCR custody; a person found guilty of a serious or violent rules violation within the last five years or who has a pending serious or violent rules violation; a person scheduled for release within the next 18 months; a person eligible for parole consideration within the next 18 months; a person who has had a parole suitability

hearing, including under Elderly Parole, Youth Parole, or Second Striker Parole Eligibility; and a person serving the lowest legal term for an individual offense. (CDCR, *Recall and Resentencing Referral*, *supra*.)

CDCR describes the “exceptional conduct” referral process as follows:

CDCR will conduct a thorough and complex screening of identified individuals, taking into consideration individual case factors, criminal history, victims, input from institutional staff and Wardens, and other factors. Upon the Secretary’s approval, the case will be sent to the court of commitment for consideration. The court may choose to recall the sentence and commitment, and resentence the individual in question as if they had not previously been sentenced. The court may also decide to let the original sentence stand, or may choose to not respond to the referral at all. If the court resentsences the individual, the prison’s Case Records Unit is required to audit all legal documents and recalculate the release date accordingly. (CDCR, *Recall and Resentencing Referral*, *supra*.)

For those in the sentencing discrepancy due to an error category, the person must not be scheduled for release within the next six months. (CDCR, *Recall and Resentencing Referral*, *supra*.) And finally, the following individuals are excluded from consideration for referral as a result of sentencing discrepancies based on new legislation or case law: a person who has not served five continuous years in CDCR custody; a person who has been found guilty of a serious or violent rules violation within the last year, or has a pending serious or violent rules violation; a person scheduled for release within the next 18 months; a person eligible for parole consideration within the next 18 months; or a person who has had a parole suitability hearing. (*Ibid.*) A referral for an individuals who fits into one of the sentencing discrepancy categories may occur following review of the sentence by CDCR attorneys.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

CDCR reports that, in developing the regulations required under this bill, CDCR would incur a fiscal impact (General Fund) if the intent of the Legislature is to create an entirely new pathway to resentencing available to incarcerated participants in the California Conservation Camp program or working at institutional firehouses.

SUPPORT: (Verified 9/5/25)

Initiate Justice (source)
ACLU California Action
California Democratic Party
California Forestry Association
California Public Defenders Association
Courage California
Ella Baker Center for Human Rights
GRIP Training Institute
Initiate Justice Action
Justice2Jobs Coalition
LA County Public Defenders Union, Local 148
La Defensa
Rubicon Programs
San Francisco Public Defender
Sister Warriors Freedom Coalition
The Forestry and Fire Recruitment Program
The W. Haywood Burns Institute
University of San Francisco School of Law, Racial Justice Clinic
Vera Institute of Justice

OPPOSITION: (Verified 9/5/25)

None received

ASSEMBLY FLOOR: 57-4, 6/4/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Davies, Elhawary, Flora, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Celeste Rodriguez, Rogers, Blanca Rubio, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: DeMaio, Ellis, Macedo, Ramos

NO VOTE RECORDED: Bains, Castillo, Chen, Dixon, Gallagher, Jeff Gonzalez,
Hadwick, Hoover, Irwin, Krell, Lackey, Pacheco, Patterson, Michelle
Rodriguez, Sanchez, Schiavo, Ta, Tangipa

Prepared by: Stephanie Jordan / PUB. S. /
9/8/25 21:21:22

**** **END** ****