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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair  
2025 - 2026 Regular Session

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### AB 938 (Bonta) - Criminal procedure: sentencing

**Version:** July 9, 2025

**Urgency:** No

**Hearing Date:** August 18, 2025

**Policy Vote:** PUB. S. 4 - 1

**Mandate:** Yes

**Consultant:** Liah Burnley

**Bill Summary:** AB 938 expands vacatur relief to a person arrested for or convicted of any offense, except murder, committed while they were a victim of human trafficking, including, but not limited to, prostitution, or a victim of intimate partner violence or sexual violence.

### Fiscal Impact:

- Costs (General Fund, local funds) of an unknown amount to DOJ and law enforcement agencies to seal and destroy records upon a court order granting vacatur relief. Actual costs will depend on the number of petitions granted and the amount of workload associated with sealing and destruction of records. Local law enforcement agency costs may be required to be reimbursed by the General Fund if the Commission on State Mandates determines the duties imposed by this bill constitute a reimbursable state mandate.
- Unknown, potential costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the vacatur petitions specified in this bill. The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people who request relief and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.
- Unknown potentially significant cost savings to county jails (local funds) to the extent this bill reduces incarceration by vacating convictions. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual savings will depend on the number of convictions vacated and the length of each sentence.
- The California Department of Corrections and Rehabilitation (CDCR) anticipates cost pressures in several areas, potentially resulting in General Fund costs of at least \$500,000 annually. These costs would primarily stem from increased staffing needs for record processing, as well as possible updates to information technology systems.

By expanding eligibility for vacatur relief, this bill is expected to increase the number of court orders received by CDCR's Case Records office. Upon receiving a court order, CDCR would be responsible for sealing and destroying applicable records within a defined timeframe of receiving the court order. CDCR anticipates the need for additional staff to manage this increased workload and potential IT system modifications for tracking and compliance. Additionally, the bill would require that the collection of all restitution, fines, and fees is stayed while the petition is pending. CDCR would need to ensure appropriate tracking when such petitions are pending.

To the extent this bill may result in an increase in in-person, court-ordered appearances, CDCR anticipates an increased staff workload related to any necessary transportation. While difficult to estimate, the fiscal impact of such transportation could be in the low hundreds of thousands, depending on the number of individuals eligible and seeking this relief.

However, there could be significant cost savings to the California Department of Corrections and Rehabilitation (General Fund) to the extent people successfully have their convictions vacated. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. The annual cost of operating a mental health crisis bed at CDCR is around \$400,000. Thus, if even if just one person serves one less year in state prison under this bill, it will result in cost savings to CDCR.

**Background:** According to the Coalition to Abolish Slavery & Trafficking (Cast), a co-sponsor of this bill: "Despite California's commitment to protecting survivors, survivors are often arrested and punished for protecting their or their family's lives. A 2023 National Survivor Survey by the Polaris Institute found that 90% of trafficked individuals with criminal records had offenses directly tied to their exploitation. The criminalization of victims by California's legal system leaves survivors without access to resources for survival, like housing, employment, education, and financial independence, and subjects them to continued cycles of violence, homelessness, and poverty. The criminalization of survivors exacerbates cycles of trauma and harm and undermines community well being and safety. Additionally, immigrant and refugee survivors face the added threat of detention and deportation when they enter the criminal legal system.

"Too often, victims and survivors of violence are blocked from the opportunity to heal because their trauma is used against them, ignored, or not accounted for during legal proceedings. Vacatur relief and affirmative defense are legal remedies with the legislative intent of preventing the incarceration of individuals who can demonstrate, by clear and convincing evidence, that they were forced to commit a crime.

"AB 938 would recognize the trauma and coercion many survivors face, offering a path to justice by acknowledging their criminalization was a result of their experience of intimate partner violence, human trafficking, or sexual violence. It offers a path to justice and empowers survivors to rebuild their lives without the burden of a record tied to their abuse."

**Proposed Law:**

- Expands vacatur relief to a person was arrested for or convicted of any offense, except murder, committed while they were a victim of human trafficking, including, but not limited to, prostitution, or a victim of intimate partner violence or sexual violence.
- Provides that, if the petition is granted, unpaid restitution, fines, and fees shall be vacated. Any unpaid restitution, fines, or fees vacated shall not affect any victim's eligibility when applying for compensation from the California Victim Compensation Board.
- Requires, if requested by the petitioner, the court to file as confidential the final court order granting the petition.
- Allows a petition to be brought at anytime.
- Requires state or local prosecutorial agency, any law enforcement agency that arrested or participated in the arrest of the petitioner, or any law enforcement agency that has taken action or maintains records related to or because of the offense being vacated pursuant to this section, including, but not limited to, a department of probation, rehabilitation, corrections, or parole, to seal and destroy records, as specified.

**-- END --**