

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Ting

February 13, 2024

An act to amend Section 1213 of, and to add Section 1171 to, the Penal Code, relating to postconviction proceedings.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as introduced, Ting. Postconviction proceedings.

Existing law authorizes a court to resentence a defendant under specified circumstances, including, among others, when the person was convicted of specified crimes that have since been repealed or had their sentences reduced.

This bill would require the presiding judge of each county superior court to, on or before March 1, 2025, convene a meeting to develop a plan for fair and efficient handling of postconviction proceedings, as specified. The bill would require that meeting to include, among others, a representative from the district attorney, public defender, department of probation, and sheriff. By imposing additional duties on local entities, this bill would impose a state-mandated local program. The bill would require postconviction proceedings, among other things, to include a consideration of whether or not to appoint counsel to represent the petitioner and to allow the court to modify every aspect of the petitioner's sentence, including if it was imposed after a guilty plea, except as specified. By imposing additional duties on county public defenders, this bill would impose a state-mandated local program.

Existing law, when a probationary order or a judgment has been pronounced, requires that a copy of that order or judgment be sent to

the officer whose duty it is to execute the order or judgment, as specified.

This bill would, when a person has been resentenced and their expected remaining time in custody is less than 30 days, require that copy to be furnished to the executing officer within 24 hours.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) For the last decade, California has authorized thousands of
4 incarcerated people to return to court to have their sentences
5 reconsidered and reduced.

6 (b) According to the Committee on Revision of the Penal Code,
7 the adoption of new ameliorative sentencing legislation on a regular
8 basis has left courts and practitioners with little specific guidance
9 for how to put the new laws into practice, resulting in wide
10 variation and inefficiency across the state.

11 (c) Creating uniform resentencing procedures would help resolve
12 cases efficiently and consistently across the state while reducing
13 costly litigation.

14 SEC. 2. Section 1171 is added to the Penal Code, to read:

15 1171. (a) For the purposes of this section, “postconviction
16 proceeding” means a proceeding to modify a sentence or conviction
17 pursuant to an ameliorative statute. Ameliorative statutes include,
18 but are not limited to, sections 1170.1, 1170.18, 1172.6, 1172.7,
19 and 1172.75.

20 (b) On or before March 1, 2025, the presiding judge of each
21 county superior court, or their designee, shall convene a meeting
22 to develop a plan for fair and efficient handling of postconviction
23 proceedings. At a minimum, the meeting shall include a

1 representative from the district attorney, the public defender or
2 other representative of indigent defense services, the department
3 of probation, the sheriff, the Department of Corrections and
4 Rehabilitation, and the clerk of the court's office. At the meeting,
5 the presiding judge or their designee shall determine how
6 postconviction proceedings will be assigned to individual judges,
7 including whether they will take place before the original
8 sentencing judge or designated judge. The presiding judge may
9 set further meetings at their discretion.

10 (c) The following shall apply for all postconviction proceedings
11 unless there is a conflict with a more specific rule established in
12 statute, in which case the more specific statute shall apply:

13 (1) Upon receiving a petition to begin a postconviction
14 proceeding, the court shall consider whether to appoint counsel to
15 represent the petitioner. This section does not prevent the court
16 from assigning counsel at a later time.

17 (2) The court may consider any pertinent circumstances that
18 have arisen since the prior sentence was imposed and has
19 jurisdiction to modify every aspect of the petitioner's sentence,
20 including if it was imposed after a guilty plea.

21 (3) Any changes to a sentence shall not be a basis for a
22 prosecutor or court to rescind a plea agreement.

23 (4) The court shall state on the record the reasons for its decision
24 to grant or deny the initial petition and shall provide notice to the
25 petitioner of its decision.

26 (5) After ruling on a petition authorized by this section, the court
27 shall advise the petitioner of their right to appeal and the necessary
28 steps and time for taking an appeal.

29 (6) The parties may waive a resentencing hearing. If the hearing
30 is not waived, the resentencing hearing may be conducted remotely
31 through the use of remote technology, if the petitioner agrees.

32 (d) This section does not diminish the ability of the prosecution
33 to oppose relief requested in a postconviction proceeding.

34 (e) This section shall not be interpreted to authorize anything
35 prohibited by an initiative statute.

36 (f) Upon request from the petitioner's attorney, the Department
37 of Corrections and Rehabilitation shall promptly make available
38 any institutional records to the attorney that will assist the court's
39 determination in the postconviction proceeding.

40 SEC. 3. Section 1213 of the Penal Code is amended to read:

1 1213. (a) (1) When a probationary order or a judgment, other
2 than of death, has been pronounced, a copy of the entry of that
3 portion of the probationary order ordering the defendant confined
4 in a city or county jail as a condition of probation, or a copy of the
5 entry of the judgment, or, if the judgment is for imprisonment in
6 the state prison or imprisonment pursuant to subdivision (h) of
7 Section 1170, either a copy of the minute order or an abstract of
8 the judgment as provided in Section 1213.5, certified by the clerk
9 of the court, and a Criminal Investigation and Identification (CII)
10 number shall be forthwith furnished to the officer whose duty it
11 is to execute the probationary order or judgment, and no other
12 warrant or authority is necessary to justify or require its execution.

13 (2) *When a person has been resentenced and the expected*
14 *remaining time to serve in custody is less than 30 days, the*
15 *information described in paragraph (1) shall be furnished to the*
16 *executing officer within 24 hours. The information may be*
17 *furnished by electronic means.*

18 (b) If a copy of the minute order is used as the commitment
19 document, the first page or pages shall be identical in form and
20 content to that prescribed by the Judicial Council for an abstract
21 of judgment, and other matters as appropriate may be added
22 thereafter.

23 SEC. 4. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.