

**Introduced by Senator Valladares**  
**(Coauthors: Senators Alvarado-Gil, Grove, Jones, Niello,**  
**Ochoa Bogh, and Seyarto)**  
(Coauthors: Assembly Members Alanis, Dixon, and Sanchez)

February 18, 2025

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An act to amend Section 6383 of the Family Code, and to amend Sections 136.2, 1203.4, 1203.4a, 1203.4b, 1203.41, and 1203.425 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 421, as introduced, Valladares. Criminal procedure: protective orders.

Existing law allows the court to issue a protective order restraining a defendant from any contact with the victim if the defendant has been convicted of a crime of domestic violence, human trafficking, a crime in furtherance of a criminal street gang, or a registerable sex offense. Under existing law, the protective order may be valid for up to 10 years, as determined by the court.

This bill would additionally allow the court to issue a permanent protective order restraining a defendant from any contact with the victim if the defendant has been convicted of any serious or violent felony, as defined, or any felony requiring registration as a sex offender. The bill would also authorize the court to permanently extend certain previously issued orders under certain circumstances. The bill would require the Judicial Council to develop forms, instructions, and rules relating to these orders.

The bill would make other conforming changes.

By authorizing the issuance of protective orders in certain circumstances and the extension of certain protective orders, a violation

of which is punishable as a crime, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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. This act shall be known, and may be cited, as  
2 Kayleigh's Law.

3 SEC. 2. Section 6383 of the Family Code is amended to read:

4 6383. (a) A temporary restraining order, emergency protective  
5 order, or an order issued after hearing pursuant to this part shall,  
6 on request of the petitioner, be served on the respondent, whether  
7 or not the respondent has been taken into custody, either by a law  
8 enforcement officer, excluding those defined in subdivision (a) of  
9 Section 830.5 of the Penal Code, who is present at the scene of  
10 reported domestic violence involving the parties to the proceeding  
11 or who receives a request from the petitioner to provide service of  
12 the order.

13 (b) (1) The petitioner shall provide the officer with an endorsed  
14 copy of the order and a proof of service that the officer shall  
15 complete and transmit to the issuing court.

16 (2) Service shall be provided pursuant to Section 6389 of the  
17 Family Code.

18 (3) Notwithstanding any other law, a fee shall not be charged  
19 to the petitioner for service of an order described in subdivision  
20 (a).

21 (4) If a firearm is obtained at the scene of a domestic violence  
22 incident or during service as provided in this section, law  
23 enforcement shall enter, or cause to be entered, the firearm into  
24 the Department of Justice Automated Firearms System pursuant  
25 to Section 11108.2 of the Penal Code.

26 (c) It is a rebuttable presumption that the proof of service was  
27 signed on the date of service.

1 (d) Upon receiving information at the scene of a domestic  
2 violence incident that a protective order has been issued under this  
3 part, or that a person who has been taken into custody is the  
4 respondent to that order, if the protected person cannot produce  
5 an endorsed copy of the order, a law enforcement officer shall  
6 immediately inquire of the California Restraining and Protective  
7 Order System to verify the existence of the order.

8 (e) If the law enforcement officer determines that a protective  
9 order has been issued but not served, the officer shall immediately  
10 notify the respondent of the terms of the order and where a written  
11 copy of the order can be obtained, and the officer shall, at that  
12 time, also enforce the order. The law enforcement officer's verbal  
13 notice of the terms of the order shall constitute service of the order  
14 and is sufficient notice for the purposes of this section and for the  
15 purposes of Sections 273.6 and 29825 of the Penal Code.

16 (f) If a report is required under Section 13730 of the Penal Code,  
17 or if no report is required, then in the daily incident log, the officer  
18 shall provide the name and assignment of the officer notifying the  
19 respondent pursuant to subdivision (e) and the case number of the  
20 order.

21 (g) Upon service of the order outside of the court, a law  
22 enforcement officer shall advise the respondent to go to the local  
23 court to obtain a copy of the order containing the full terms and  
24 conditions of the order.

25 (h) (1) There shall be no civil liability on the part of, and no  
26 cause of action for false arrest or false imprisonment against, a  
27 peace officer who makes an arrest pursuant to a protective or  
28 restraining order that is regular upon its face, if the peace officer,  
29 in making the arrest, acts in good faith and has reasonable cause  
30 to believe that the person against whom the order is issued has  
31 notice of the order and has committed an act in violation of the  
32 order.

33 (2) If there is more than one order issued and one of the orders  
34 is an emergency protective order that has precedence in  
35 enforcement pursuant to paragraph (1) of subdivision (c) of Section  
36 136.2 of the Penal Code, the peace officer shall enforce the  
37 emergency protective order. If there is more than one order issued,  
38 none of the orders issued is an emergency protective order that  
39 has precedence in enforcement, and one of the orders issued is a  
40 no-contact order, as described in Section 6320, the peace officer

1 shall enforce the no-contact order. If there is more than one civil  
2 order regarding the same parties and neither an emergency  
3 protective order that has precedence in enforcement nor a  
4 no-contact order has been issued, the peace officer shall enforce  
5 the order that was issued last. If there are both civil and criminal  
6 orders regarding the same parties and neither an emergency  
7 protective order that has precedence in enforcement nor a  
8 no-contact order has been issued, the peace officer shall enforce  
9 the criminal order issued last, subject to the provisions of  
10 subdivisions ~~(h) and (i)~~ (h), (i), and (j) of Section 136.2 of the  
11 Penal Code. This section does not exonerate a peace officer from  
12 liability for the unreasonable use of force in the enforcement of  
13 the order. The immunities afforded by this section shall not affect  
14 the availability of any other immunity that may apply, including,  
15 but not limited to, Sections 820.2 and 820.4 of the Government  
16 Code.

17 (i) A peace officer listed in Section 18250 of the Penal Code  
18 shall take temporary custody of any firearm or other deadly weapon  
19 in plain sight or discovered pursuant to a consensual or otherwise  
20 lawful search as necessary for the protection of the peace officer  
21 or other persons present in any of the following circumstances:

22 (1) The peace officer is at the scene of a domestic violence  
23 incident involving a threat to human life or a physical assault.

24 (2) The peace officer is serving a protective order issued  
25 pursuant to this part.

26 (3) The peace officer is serving a gun violence restraining order  
27 issued pursuant to Division 3.2 (commencing with Section 18100)  
28 of Title 2 of Part 6 of the Penal Code.

29 SEC. 3. Section 136.2 of the Penal Code is amended to read:

30 136.2. (a) (1) Upon a good cause belief that harm to, or  
31 intimidation or dissuasion of, a victim or witness has occurred or  
32 is reasonably likely to occur, a court with jurisdiction over a  
33 criminal matter may issue orders, including, but not limited to, the  
34 following:

35 (A) An order issued pursuant to Section 6320 of the Family  
36 Code.

37 (B) An order that a defendant shall not violate any provision of  
38 Section 136.1.

39 (C) An order that a person before the court other than a  
40 defendant, including, but not limited to, a subpoenaed witness or

1 other person entering the courtroom of the court, shall not violate  
2 any provision of Section 136.1.

3 (D) An order that a person described in this section shall have  
4 no communication whatsoever with a specified witness or a victim  
5 except through an attorney under reasonable restrictions that the  
6 court may impose.

7 (E) An order calling for a hearing to determine if an order  
8 described in subparagraphs (A) to (D), inclusive, should be issued.

9 (F) (i) An order that a particular law enforcement agency within  
10 the jurisdiction of the court provide protection for a victim, witness,  
11 or both, or for immediate family members of a victim or a witness  
12 who reside in the same household as the victim or witness or within  
13 reasonable proximity of the victim's or witness' household, as  
14 determined by the court. The order shall not be made without the  
15 consent of the law enforcement agency except for limited and  
16 specified periods of time and upon an express finding by the court  
17 of a clear and present danger of harm to the victim or witness or  
18 immediate family members of the victim or witness.

19 (ii) For purposes of this paragraph, "immediate family members"  
20 include the spouse, children, or parents of the victim or witness.

21 (G) (i) An order protecting a victim or witness of violent crime  
22 from all contact by the defendant or contact with the intent to  
23 annoy, harass, threaten, or commit acts of violence by the  
24 defendant. The court or its designee shall transmit orders made  
25 under this paragraph to law enforcement personnel within one  
26 business day of the issuance, modification, extension, or  
27 termination of the order pursuant to subdivision (a) of Section  
28 6380 of the Family Code. It is the responsibility of the court to  
29 transmit the modification, extension, or termination orders made  
30 under this paragraph to the same agency that entered the original  
31 protective order into the California Restraining and Protective  
32 Order System.

33 (ii) (I) If a court does not issue an order pursuant to clause (i)  
34 when the defendant is charged with a crime involving domestic  
35 violence, as defined in Section 13700 of this code or in Section  
36 6211 of the Family Code, the court, on its own motion, shall  
37 consider issuing a protective order upon a good cause belief that  
38 harm to, or intimidation or dissuasion of, a victim or witness has  
39 occurred or is reasonably likely to occur, that provides as follows:

1 (ia) The defendant shall not own, possess, purchase, receive, or  
2 attempt to purchase or receive a firearm while the protective order  
3 is in effect.

4 (ib) The defendant shall relinquish ownership or possession of  
5 any firearms pursuant to Section 527.9 of the Code of Civil  
6 Procedure.

7 (II) A person who owns, possesses, purchases, or receives, or  
8 attempts to purchase or receive a firearm while this protective  
9 order is in effect is punishable pursuant to Section 29825.

10 (iii) An order issued, modified, extended, or terminated by a  
11 court pursuant to this subparagraph shall be issued on forms  
12 adopted by the Judicial Council that have been approved by the  
13 Department of Justice pursuant to subdivision (i) of Section 6380  
14 of the Family Code. However, the fact that an order issued by a  
15 court pursuant to this section was not issued on forms adopted by  
16 the Judicial Council and approved by the Department of Justice  
17 shall not make the order unenforceable.

18 (iv) A protective order issued under this subparagraph may  
19 require the defendant to be placed on electronic monitoring if the  
20 local government, with the concurrence of the county sheriff or  
21 the chief probation officer with jurisdiction, adopts a policy to  
22 authorize electronic monitoring of defendants and specifies the  
23 agency with jurisdiction for this purpose. If the court determines  
24 that the defendant has the ability to pay for the monitoring program,  
25 the court shall order the defendant to pay for the monitoring. If  
26 the court determines that the defendant does not have the ability  
27 to pay for the electronic monitoring, the court may order electronic  
28 monitoring to be paid for by the local government that adopted  
29 the policy to authorize electronic monitoring. The duration of  
30 electronic monitoring shall not exceed one year from the date the  
31 order is issued. The electronic monitoring shall not be in place if  
32 the protective order is not in place.

33 (2) For purposes of this subdivision, a minor who was not a  
34 victim of, but who was physically present at the time of, an act of  
35 domestic violence is a witness and is deemed to have suffered  
36 harm within the meaning of paragraph (1).

37 (b) A person violating an order made pursuant to subparagraphs  
38 (A) to (G), inclusive, of paragraph (1) of subdivision (a) may be  
39 punished for a substantive offense described in Section 136.1 or  
40 for a contempt of the court making the order. A finding of contempt

1 shall not be a bar to prosecution for a violation of Section 136.1.  
2 However, a person held in contempt shall be entitled to credit for  
3 punishment imposed therein against a sentence imposed upon  
4 conviction of an offense described in Section 136.1. A conviction  
5 or acquittal for a substantive offense under Section 136.1 shall be  
6 a bar to a subsequent punishment for contempt arising out of the  
7 same act.

8 (c) (1) (A) Notwithstanding subdivision (e), an emergency  
9 protective order issued pursuant to Chapter 2 (commencing with  
10 Section 6250) of Part 3 of Division 10 of the Family Code or  
11 Section 646.91 shall have precedence in enforcement over any  
12 other restraining or protective order, provided the emergency  
13 protective order meets all of the following requirements:

14 (i) The emergency protective order is issued to protect one or  
15 more individuals who are already protected persons under another  
16 restraining or protective order.

17 (ii) The emergency protective order restrains the individual who  
18 is the restrained person in the other restraining or protective order  
19 specified in clause (i).

20 (iii) The provisions of the emergency protective order are more  
21 restrictive in relation to the restrained person than are the provisions  
22 of the other restraining or protective order specified in clause (i).

23 (B) An emergency protective order that meets the requirements  
24 of subparagraph (A) shall have precedence in enforcement over  
25 the provisions of any other restraining or protective order only  
26 with respect to those provisions of the emergency protective order  
27 that are more restrictive in relation to the restrained person.

28 (2) Except as described in paragraph (1), a no-contact order, as  
29 described in Section 6320 of the Family Code, shall have  
30 precedence in enforcement over any other restraining or protective  
31 order.

32 (d) (1) A person subject to a protective order issued under this  
33 section shall not own, possess, purchase, or receive, or attempt to  
34 purchase or receive, a firearm while the protective order is in effect.

35 (2) The court shall order a person subject to a protective order  
36 issued under this section to relinquish ownership or possession of  
37 any firearms pursuant to Section 527.9 of the Code of Civil  
38 Procedure.

1 (3) A person who owns, possesses, purchases, or receives, or  
2 attempts to purchase or receive a firearm while the protective order  
3 is in effect is punishable pursuant to Section 29825.

4 (e) (1) When the defendant is charged with a crime involving  
5 domestic violence, as defined in Section 13700 of this code or in  
6 Section 6211 of the Family Code, a violation of Section 261, 261.5,  
7 or former Section 262, or a crime that requires the defendant to  
8 register pursuant to subdivision (c) of Section 290, including, but  
9 not limited to, commercial sexual exploitation of a minor in  
10 violation of Section 236.1, the court shall consider issuing the  
11 above-described orders on its own motion. All interested parties  
12 shall receive a copy of those orders. To facilitate this, the court's  
13 records of all criminal cases involving domestic violence, a  
14 violation of Section 261, 261.5, or former Section 262, or a crime  
15 that requires the defendant to register pursuant to subdivision (c)  
16 of Section 290, including, but not limited to, commercial sexual  
17 exploitation of a minor in violation of Section 236.1, shall be  
18 marked to clearly alert the court to this issue.

19 (2) When a complaint, information, or indictment charging a  
20 crime involving domestic violence, as defined in Section 13700  
21 or in Section 6211 of the Family Code, a violation of Section 261,  
22 261.5, or former Section 262, or a crime that requires the defendant  
23 to register pursuant to subdivision (c) of Section 290, including,  
24 but not limited to, commercial sexual exploitation of a minor in  
25 violation of Section 236.1, has been issued, except as described  
26 in subdivision (c), a restraining order or protective order against  
27 the defendant issued by the criminal court in that case has  
28 precedence in enforcement over a civil court order against the  
29 defendant.

30 (3) Custody and visitation with respect to the defendant and the  
31 defendant's minor children may be ordered by a family or juvenile  
32 court consistent with the protocol established pursuant to  
33 subdivision (f), but if it is ordered after a criminal protective order  
34 has been issued pursuant to this section, the custody and visitation  
35 order shall make reference to and, if there is not an emergency  
36 protective order that has precedence in enforcement pursuant to  
37 paragraph (1) of subdivision (c) or a no-contact order, as described  
38 in Section 6320 of the Family Code, acknowledge the precedence  
39 of enforcement of an appropriate criminal protective order. On or



1 before July 1, 2014, the Judicial Council shall modify the criminal  
2 and civil court forms consistent with this subdivision.

3 (f) On or before January 1, 2003, the Judicial Council shall  
4 promulgate a protocol, for adoption by each local court in  
5 substantially similar terms, to provide for the timely coordination  
6 of all orders against the same defendant and in favor of the same  
7 named victim or victims. The protocol shall include, but shall not  
8 be limited to, mechanisms for ensuring appropriate communication  
9 and information sharing between criminal, family, and juvenile  
10 courts concerning orders and cases that involve the same parties  
11 and shall permit a family or juvenile court order to coexist with a  
12 criminal court protective order subject to the following conditions:

13 (1) An order that permits contact between the restrained person  
14 and the person's children shall provide for the safe exchange of  
15 the children and shall not contain language, either printed or  
16 handwritten, that violates a "no-contact order" issued by a criminal  
17 court.

18 (2) The safety of all parties shall be the courts' paramount  
19 concern. The family or juvenile court shall specify the time, day,  
20 place, and manner of transfer of the child as provided in Section  
21 3100 of the Family Code.

22 (g) On or before January 1, 2003, the Judicial Council shall  
23 modify the criminal and civil court protective order forms  
24 consistent with this section.

25 (h) (1) When a complaint, information, or indictment charging  
26 a crime involving domestic violence, as defined in Section 13700  
27 or in Section 6211 of the Family Code, has been filed, the court  
28 may consider, in determining whether good cause exists to issue  
29 an order under subparagraph (A) of paragraph (1) of subdivision  
30 (a), the underlying nature of the offense charged and the  
31 information provided to the court pursuant to Section 273.75.

32 (2) When a complaint, information, or indictment charging a  
33 violation of Section 261, 261.5, or former Section 262, or a crime  
34 that requires the defendant to register pursuant to subdivision (c)  
35 of Section 290, including, but not limited to, commercial sexual  
36 exploitation of a minor in violation of Section 236.1, has been  
37 filed, the court may consider, in determining whether good cause  
38 exists to issue an order under paragraph (1) of subdivision (a), the  
39 underlying nature of the offense charged, the defendant's  
40 relationship to the victim, the likelihood of continuing harm to the

1 victim, any current restraining order or protective order issued by  
2 a civil or criminal court involving the defendant, and the  
3 defendant's criminal history, including, but not limited to, prior  
4 convictions for a violation of Section 261, 261.5, or former Section  
5 262, a crime that requires the defendant to register pursuant to  
6 subdivision (c) of Section 290, including, but not limited to,  
7 commercial sexual exploitation of a minor in violation of Section  
8 236.1, any other forms of violence, or a weapons offense.

9 (i) (1) ~~When~~ *Except as otherwise provided in subdivision (j),*  
10 *when* a criminal defendant has been convicted of a crime involving  
11 domestic violence, as defined in Section 13700 or in Section 6211  
12 of the Family Code, a violation of ~~subdivision (a), (b), or (c)~~ of  
13 Section 236.1 prohibiting human trafficking, Section 261, 261.5,  
14 former Section 262, subdivision (a) of Section 266h, or subdivision  
15 (a) of Section 266i, a violation of Section 186.22, or a ~~crime~~  
16 *misdemeanor* that requires the defendant to register pursuant to  
17 subdivision (c) of Section 290, the court, at the time of sentencing,  
18 shall consider issuing an order restraining the defendant from any  
19 contact with a victim of the crime. The order may be valid for up  
20 to 10 years, as determined by the court. This protective order may  
21 be issued by the court regardless of whether the defendant is  
22 sentenced to the state prison or a county jail, whether the defendant  
23 is subject to mandatory supervision, or whether imposition of  
24 sentence is suspended and the defendant is placed on probation.  
25 The order may be modified by the sentencing court in the county  
26 in which it was issued throughout the duration of the order. It is  
27 the intent of the Legislature in enacting this subdivision that the  
28 duration of a restraining order issued by the court be based upon  
29 the seriousness of the facts before the court, the probability of  
30 future violations, the safety of a victim and the victim's immediate  
31 family, and any information provided to the court pursuant to  
32 Section 273.75.

33 (2) When a criminal defendant has been convicted of a crime  
34 involving domestic violence, as defined in Section 13700 or in  
35 Section 6211 of the Family Code, a violation of Section 261, 261.5,  
36 or former Section 262, a violation of Section 186.22, or a crime  
37 that requires the defendant to register pursuant to subdivision (c)  
38 of Section 290, the court, at the time of sentencing, shall consider  
39 issuing an order restraining the defendant from any contact with  
40 a percipient witness to the crime if it can be established by clear

1 and convincing evidence that the witness has been harassed, as  
2 defined in paragraph (3) of subdivision (b) of Section 527.6 of the  
3 Code of Civil Procedure, by the defendant.

4 *(j) (1) When a criminal defendant has been convicted of a*  
5 *violent felony, as defined in Section 667.5, a serious felony, as*  
6 *defined in Section 1192.7, or a felony offense that requires*  
7 *registration pursuant to Section 290, the court shall, in the*  
8 *discretion of the court and unless the victim otherwise requests,*  
9 *consider issuing a protective order that prohibits the defendant*  
10 *from contacting any victim of the crime. Any victim of an offense*  
11 *described in this section may petition the court for the issuance of*  
12 *such an order.*

13 *(2) A protective order issued pursuant to this subdivision shall*  
14 *not expire and shall be valid for the defendant's lifetime or until*  
15 *any of the following occur.*

16 *(A) The victim dies.*

17 *(B) The underlying conviction is dismissed or overturned.*

18 *(C) The court, at the request of the victim, removes the protective*  
19 *order. The victim may petition the court for removal of the order*  
20 *at any time and the court may hold a hearing to verify the victim's*  
21 *request to dismiss the protective order.*

22 *(3) The court shall serve the defendant with any protective order*  
23 *issued pursuant to this subdivision at the time of sentencing.*

24 *(4) The provisions of Section 6380 of the Family Code shall*  
25 *apply to a protective order issued pursuant to this subdivision.*

26 *(5) A protective order issued pursuant to this subdivision may*  
27 *be issued by the court regardless of whether the defendant is*  
28 *sentenced to incarceration in the state prison or a county jail,*  
29 *whether the defendant is subject to mandatory supervision, or*  
30 *whether imposition of sentence is suspended and the defendant is*  
31 *placed on probation. The order may be modified throughout the*  
32 *duration of the order by the court in the county in which the order*  
33 *was issued.*

34 *(k) An order that was issued pursuant to paragraph (1) of*  
35 *subdivision (i) before January 1, 2025, and that is still in effect*  
36 *may be extended for more than ten years and be valid for the*  
37 *lifetime of the defendant if, during the duration of the order, the*  
38 *defendant has violated the terms and conditions of the order, the*  
39 *defendant has been convicted of an offense described in paragraph*  
40 *(1) of subdivision (j), and the court finds that, based upon the*

1 *seriousness of the facts before the court, the probability of future*  
2 *violations, and the safety of a victim and the victim's immediate*  
3 *family, that extension of the protective order is appropriate. Orders*  
4 *extended pursuant to this subdivision shall be subject to the*  
5 *provisions of paragraph (2) and (4) of subdivision (j).*

6 ~~(3)~~

7 ~~(l) An order under this subdivision issued pursuant to~~  
8 ~~subdivision (i) or (j) may include provisions for electronic~~  
9 ~~monitoring if the local government, upon receiving the concurrence~~  
10 ~~of the county sheriff or the chief probation officer with jurisdiction,~~  
11 ~~adopts a policy authorizing electronic monitoring of defendants~~  
12 ~~and specifies the agency with jurisdiction for this purpose. If the~~  
13 ~~court determines that the defendant has the ability to pay for the~~  
14 ~~monitoring program, the court shall order the defendant to pay for~~  
15 ~~the monitoring. If the court determines that the defendant does not~~  
16 ~~have the ability to pay for the electronic monitoring, the court may~~  
17 ~~order the electronic monitoring to be paid for by the local~~  
18 ~~government that adopted the policy authorizing electronic~~  
19 ~~monitoring. The duration of the electronic monitoring shall not~~  
20 ~~exceed one year from the date the order is issued.~~

21 *(m) The Judicial Council shall develop forms, instructions, and*  
22 *rules relating to protective orders issued or extended pursuant to*  
23 *subdivisions (j) and (k).*

24 ~~(j)~~

25 *(n) For purposes of this section, "local government" means the*  
26 *county that has jurisdiction over the protective order.*

27 SEC. 4. Section 1203.4 of the Penal Code is amended to read:

28 1203.4. (a) (1) When a defendant has fulfilled the conditions  
29 of probation for the entire period of probation, or has been  
30 discharged prior to the termination of the period of probation, or  
31 in any other case in which a court, in its discretion and the interest  
32 of justice, determines that a defendant should be granted the relief  
33 available under this section, the defendant shall, at any time after  
34 the termination of the period of probation, if they are not then  
35 serving a sentence for an offense, on probation for an offense, or  
36 charged with the commission of an offense, be permitted by the  
37 court to withdraw their plea of guilty or plea of nolo contendere  
38 and enter a plea of not guilty; or, if they have been convicted after  
39 a plea of not guilty, the court shall set aside the verdict of guilty;  
40 and, in either case, the court shall thereupon dismiss the accusations

1 or information against the defendant and except as noted below,  
2 the defendant shall thereafter be released from all penalties and  
3 disabilities resulting from the offense of which they have been  
4 convicted, except as provided in Section 13555 of the Vehicle  
5 Code. The probationer shall be informed, in their probation papers,  
6 of this right and privilege and the right, if any, to petition for a  
7 certificate of rehabilitation and pardon. The probationer may make  
8 the application and change of plea in person or by attorney, or by  
9 the probation officer authorized in writing. However, in any  
10 subsequent prosecution of the defendant for any other offense, the  
11 prior conviction may be pleaded and proved and shall have the  
12 same effect as if probation had not been granted or the accusation  
13 or information dismissed. The order shall state, and the probationer  
14 shall be informed, that the order does not relieve them of the  
15 obligation to disclose the conviction in response to any direct  
16 question contained in any questionnaire or application for public  
17 office, for licensure by any state or local agency, or for contracting  
18 with the California State Lottery Commission.

19 (2) Dismissal of an accusation or information pursuant to this  
20 section does not permit a person to own, possess, or have custody  
21 or control of a firearm or to prevent conviction under Chapter 2  
22 (commencing with Section 29800) of Division 9 of Title 4 of Part  
23 6.

24 (3) Dismissal of an accusation or information underlying a  
25 conviction pursuant to this section does not permit a person  
26 prohibited from holding public office as a result of that conviction  
27 to hold public office.

28 (4) Dismissal of an accusation or information pursuant to this  
29 section does not release the defendant from the terms and  
30 conditions of an unexpired criminal protective order that has been  
31 issued by the court pursuant to paragraph (1) of subdivision (i) ~~of~~  
32 *of, or subdivision (j) of*, Section 136.2, subdivision (j) of Section  
33 273.5, subdivision (l) of Section 368, or subdivision (k) of Section  
34 646.9. These protective orders shall remain in full effect until  
35 expiration or until any further order by the court modifying or  
36 terminating the order, despite the dismissal of the underlying  
37 accusation or information.

38 (5) This subdivision shall apply to all applications for relief  
39 under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to a misdemeanor that is within the provisions of Section 42002.1 of the Vehicle Code, to a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 287 or of former Section 288a, Section 288.5, subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or 311.11, or a felony conviction pursuant to subdivision (d) of Section 261.5, or to an infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interest of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(3) (A) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.

(B) An unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the condition of probation for the entire period of probation.

(C) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(d) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(f) Notwithstanding the above provisions or any other law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 287 or of former Section 288a, Section

1 288.5, or subdivision (j) of Section 289, if there are extraordinary  
2 circumstances.

3 SEC. 5. Section 1203.4a of the Penal Code is amended to read:

4 1203.4a. (a) Every defendant convicted of a misdemeanor and  
5 not granted probation, and every defendant convicted of an  
6 infraction shall, at any time after the lapse of one year from the  
7 date of pronouncement of judgment, if they have fully complied  
8 with and performed the sentence of the court, are not then serving  
9 a sentence for an offense and are not under charge of commission  
10 of a crime, and have, since the pronouncement of judgment, lived  
11 an honest and upright life and have conformed to and obeyed the  
12 laws of the land, be permitted by the court to withdraw their plea  
13 of guilty or nolo contendere and enter a plea of not guilty; or if  
14 they have been convicted after a plea of not guilty, the court shall  
15 set aside the verdict of guilty; and in either case the court shall  
16 dismiss the accusatory pleading against the defendant, who shall  
17 be released from all penalties and disabilities resulting from the  
18 offense of which they have been convicted, except as provided in  
19 Chapter 3 (commencing with Section 29900) of Division 9 of Title  
20 4 of Part 6 of this code or Section 13555 of the Vehicle Code.

21 (b) If a defendant does not satisfy all the requirements of  
22 subdivision (a), after a lapse of one year from the date of  
23 pronouncement of judgment, a court, in its discretion and in the  
24 interest of justice, may grant the relief available pursuant to  
25 subdivision (a) to a defendant convicted of an infraction, or of a  
26 misdemeanor and not granted probation, or both, if the defendant  
27 has fully complied with and performed the sentence of the court,  
28 is not then serving a sentence for any offense, and is not under  
29 charge of commission of a crime.

30 (c) (1) The defendant shall be informed of the provisions of  
31 this section, either orally or in writing, at the time they are  
32 sentenced. The defendant may make an application and change of  
33 plea in person or by attorney, or by the probation officer authorized  
34 in writing, provided that, in any subsequent prosecution of the  
35 defendant for any other offense, the prior conviction may be  
36 pleaded and proved and shall have the same effect as if relief had  
37 not been granted pursuant to this section.

38 (2) Dismissal of an accusatory pleading pursuant to this section  
39 does not permit a person to own, possess, or have in their custody  
40 or control a firearm or prevent their conviction under Chapter 2

(commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(3) Dismissal of an accusatory pleading underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(4) Dismissal of an accusation or information pursuant to this section does not release the defendant from the terms and conditions of an unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) ~~of~~ *of, or subdivision (j) of*, Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(d) This section applies to a conviction specified in subdivision (a) or (b) that occurred before, as well as those occurring after, the effective date of this section, except that this section does not apply to the following:

(1) A misdemeanor violation of subdivision (c) of Section 288.

(2) A misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code.

(3) An infraction falling within the provisions of Section 42001 of the Vehicle Code.

(e) (1) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.

(2) An unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fully comply with and perform the sentence of the court or a finding that a defendant has not lived an honest and upright life and has not conformed to and obeyed the laws of the land.

(3) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(f) A petition for dismissal of an infraction pursuant to this section shall be by written declaration, except upon a showing of compelling need. Dismissal of an infraction shall not be granted under this section unless the prosecuting attorney has been given



1 at least 15 days' notice of the petition for dismissal. It shall be  
2 presumed that the prosecuting attorney has received notice if proof  
3 of service is filed with the court.

4 (g) Any determination of amount made by a court under this  
5 section shall be valid only if either (1) made under procedures  
6 adopted by the Judicial Council or (2) approved by the Judicial  
7 Council.

8 SEC. 6. Section 1203.4b of the Penal Code is amended to read:

9 1203.4b. (a) (1) If a defendant successfully participated in  
10 the California Conservation Camp program as an incarcerated  
11 individual hand crew member, as determined by the Secretary of  
12 the Department of Corrections and Rehabilitation, or participated  
13 as a member of a county incarcerated individual hand crew, as  
14 determined by the appropriate county authority, or successfully  
15 participated at an institutional firehouse, as determined by the  
16 Secretary of the Department of Corrections and Rehabilitation,  
17 and has been released from custody, the defendant is eligible for  
18 relief pursuant to this section, except that incarcerated individuals  
19 who have been convicted of any of the following crimes are  
20 automatically ineligible for relief pursuant to this section:

21 (A) Murder.

22 (B) Kidnapping.

23 (C) Rape as defined in paragraph (2) or (6) of subdivision (a)  
24 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section  
25 262.

26 (D) Lewd acts on a child under 14 years of age, as defined in  
27 Section 288.

28 (E) Any felony punishable by death or imprisonment in the state  
29 prison for life.

30 (F) Any sex offense requiring registration pursuant to Section  
31 290.

32 (G) Escape from a secure perimeter within the previous 10 years.

33 (H) Arson.

34 (2) Any denial of relief pursuant to this section shall be without  
35 prejudice.

36 (3) For purposes of this subdivision, successful participation in  
37 a conservation camp program or a program at an institutional  
38 firehouse and successful participation as a member of a county  
39 incarcerated individual hand crew, as determined by the appropriate  
40 county authority, means the incarcerated individual adequately

1 performed their duties without any conduct that warranted removal  
2 from the program.

3 (b) (1) The defendant may file a petition for relief with the  
4 court in the county where the defendant was sentenced. The court  
5 shall provide a copy of the petition to the secretary, or, in the case  
6 of a county incarcerated individual hand crew member, the  
7 appropriate county authority.

8 (2) If the secretary or appropriate county authority certifies to  
9 the court that the defendant successfully participated in the  
10 incarcerated individual conservation camp program, or institutional  
11 firehouse, or successfully participated as a member of a county  
12 incarcerated individual hand crew, as determined by the appropriate  
13 county authority, as specified in subdivision (a), and has been  
14 released from custody, the court, in its discretion and in the  
15 interests of justice, may issue an order pursuant to subdivision (c).

16 (3) To be eligible for relief pursuant to this section, the defendant  
17 is not required to complete the term of their probation, parole, or  
18 supervised release. Notwithstanding any other law, the court, in  
19 providing relief pursuant to this section, shall order early  
20 termination of probation, parole, or supervised release if the court  
21 determines that the defendant has not violated any terms or  
22 conditions of probation, parole, or supervised release prior to, and  
23 during the pendency of, the petition for relief pursuant to this  
24 section.

25 (4) All convictions for which the defendant is serving a sentence  
26 at the time the defendant successfully participates in a program as  
27 specified in subdivision (a) are subject to relief pursuant to this  
28 section, except that a defendant convicted of any offense listed in  
29 subparagraphs (A) to (H), inclusive, of paragraph (1) of subdivision  
30 (a) is ineligible for relief pursuant to this section.

31 (5) (A) A defendant who is granted an order pursuant to this  
32 section shall not be required to disclose the conviction on an  
33 application for licensure by any state or local agency.

34 (B) This paragraph does not apply to an application for licensure  
35 by the Commission on Teacher Credentialing, a position as a peace  
36 officer, public office, or for contracting with the California State  
37 Lottery Commission.

38 (c) (1) If the requirements of this section are met, the court, in  
39 its discretion and in the interest of justice, may permit the defendant  
40 to withdraw the plea of guilty or plea of nolo contendere and enter

1 a plea of not guilty, or, if the defendant has been convicted after  
2 a plea of not guilty, the court shall set aside the verdict of guilty,  
3 and, in either case, the court shall thereupon dismiss the accusations  
4 or information against the defendant and the defendant shall  
5 thereafter be released from all penalties and disabilities resulting  
6 from the offense of which the defendant has been convicted, except  
7 as provided in Section 13555 of the Vehicle Code.

8 (2) The relief available pursuant to this section shall not be  
9 granted if the defendant is currently charged with the commission  
10 of any other offense.

11 (3) The defendant may make the application and change of plea  
12 in person or by attorney.

13 (4) (A) A petition for relief under this section shall not be  
14 denied due to an unfulfilled order of restitution or restitution fine.

15 (B) An unfulfilled order of restitution or restitution fine shall  
16 not be grounds for finding that a defendant did not successfully  
17 participate in the California Conservation Camp program as an  
18 incarcerated individual hand crew member or at an institutional  
19 firehouse, or that the defendant did not successfully participate as  
20 a member of a county incarcerated individual hand crew.

21 (C) When the court considers a petition for relief under this  
22 section, in its discretion and in the interest of justice, an unpaid  
23 order of restitution or restitution fine shall not be grounds for denial  
24 of the petition for relief.

25 (d) Relief granted pursuant to this section is subject to the  
26 following conditions:

27 (1) In any subsequent prosecution of the defendant for any other  
28 offense, the prior conviction may be pleaded and proved and shall  
29 have the same effect as if the accusation or information had not  
30 been dismissed.

31 (2) The order shall state, and the defendant shall be informed,  
32 that the order does not relieve the defendant of the obligation to  
33 disclose the conviction in response to any direct question contained  
34 in any questionnaire or application for licensure by the Commission  
35 on Teacher Credentialing, a peace officer, public office, or for  
36 contracting with the California State Lottery Commission.

37 (3) Dismissal of an accusation or information pursuant to this  
38 section does not permit a person to own, possess, or have in the  
39 person's custody or control any firearm or prevent their conviction

1 under Chapter 2 (commencing with Section 29800) of Division 9  
2 of Title 4 of Part 6.

3 (4) Dismissal of an accusation or information underlying a  
4 conviction pursuant to this section does not permit a person  
5 prohibited from holding public office as a result of that conviction  
6 to hold public office.

7 (5) Dismissal of an accusation or information pursuant to this  
8 section does not release the defendant from the terms and  
9 conditions of any unexpired criminal protective order that has been  
10 issued by the court pursuant to paragraph (1) of subdivision (i) ~~of~~  
11 ~~of, or subdivision (j) of,~~ Section 136.2, subdivision (j) of Section  
12 273.5, subdivision (l) of Section 368, or subdivision (k) of Section  
13 646.9. These protective orders shall remain in full effect until  
14 expiration or until any further order by the court modifying or  
15 terminating the order, despite the dismissal of the underlying  
16 accusation or information.

17 (e) (1) Relief shall not be granted under this section unless the  
18 prosecuting attorney has been given 15 days' notice of the petition  
19 for relief.

20 (2) It shall be presumed that the prosecuting attorney has  
21 received notice if proof of service is filed with the court.

22 (f) If, after receiving notice pursuant to subdivision (e), the  
23 prosecuting attorney fails to appear and object to a petition for  
24 dismissal, the prosecuting attorney may not move to set aside or  
25 otherwise appeal the grant of that petition.

26 SEC. 7. Section 1203.41 of the Penal Code is amended to read:  
27 1203.41. (a) If a defendant is convicted of a felony, the court,  
28 in its discretion and in the interest of justice, may order the  
29 following relief, subject to the conditions of subdivision (b):

30 (1) The court may permit the defendant to withdraw their plea  
31 of guilty or plea of nolo contendere and enter a plea of not guilty,  
32 or, if the defendant has been convicted after a plea of not guilty,  
33 the court shall set aside the verdict of guilty, and, in either case,  
34 the court shall dismiss the accusations or information against the  
35 defendant and the defendant shall be released from all penalties  
36 and disabilities resulting from the offense of which they have been  
37 convicted, except as provided in Section 13555 of the Vehicle  
38 Code.

39 (2) The relief available under this section may be granted only  
40 after the lapse of one year following the defendant's completion

1 of the sentence, if the sentence was imposed pursuant to  
2 subparagraph (B) of paragraph (5) of subdivision (h) of Section  
3 1170, or after the lapse of two years following the defendant's  
4 completion of the sentence, if the sentence was imposed pursuant  
5 to subparagraph (A) of paragraph (5) of subdivision (h) of Section  
6 1170 or if the defendant was sentenced to the state prison.

7 (3) The relief available under this section may be granted only  
8 if the defendant is not on parole or under supervision pursuant to  
9 subparagraph (B) of paragraph (5) of subdivision (h) of Section  
10 1170, and is not serving a sentence for, on probation for, or charged  
11 with the commission of, an offense.

12 (4) The defendant shall be informed, either orally or in writing,  
13 of the provisions of this section and of their right, if any, to petition  
14 for a certificate of rehabilitation and pardon at the time of  
15 sentencing.

16 (5) The defendant may make the application and change of plea  
17 in person or by attorney, or by a probation officer authorized in  
18 writing.

19 (6) If the defendant seeks relief under this section for a felony  
20 that resulted in a sentence to the state prison, the relief available  
21 under this section may only be granted if that felony did not result  
22 in a requirement to register as a sex offender pursuant to Chapter  
23 5.5 (commencing with Section 290) of Title 9 of Part 1.

24 (b) Relief granted pursuant to subdivision (a) is subject to all  
25 of the following conditions:

26 (1) In any subsequent prosecution of the defendant for any other  
27 offense, the prior conviction may be pleaded and proved and shall  
28 have the same effect as if the accusation or information had not  
29 been dismissed.

30 (2) The order shall state, and the defendant shall be informed,  
31 that the order does not relieve them of the obligation to disclose  
32 the conviction in response to a direct question contained in a  
33 questionnaire or application for public office, for licensure by a  
34 state or local agency or by a federally recognized tribe, for  
35 enrollment as a provider of in-home supportive services and waiver  
36 personal care services pursuant to Article 7 (commencing with  
37 Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare  
38 and Institutions Code or pursuant to Section 14132.95, 14132.952,  
39 14132.956, or 14132.97 of the Welfare and Institutions Code, or  
40 for contracting with the California State Lottery Commission.

1 (3) Dismissal of an accusation or information pursuant to this  
2 section does not permit a person to own, possess, or have in their  
3 custody or control a firearm or prevent their conviction under  
4 Chapter 2 (commencing with Section 29800) of Division 9 of Title  
5 4 of Part 6.

6 (4) Dismissal of an accusation or information underlying a  
7 conviction pursuant to this section does not permit a person  
8 prohibited from holding public office as a result of that conviction  
9 to hold public office.

10 (c) This section applies to any conviction specified in  
11 subdivision (a) that occurred before, on, or after January 1, 2021.

12 (d) When the court considers a petition for relief under this  
13 section, in its discretion and in the interest of justice, an unpaid  
14 order of restitution or restitution fine shall not be grounds for denial  
15 of the petition for relief.

16 (e) (1) Relief shall not be granted under this section unless the  
17 prosecuting attorney has been given 15 days' notice of the petition  
18 for relief. The probation officer shall notify the prosecuting attorney  
19 when a petition is filed, pursuant to this section.

20 (2) It shall be presumed that the prosecuting attorney has  
21 received notice if proof of service is filed with the court.

22 (f) If, after receiving notice pursuant to subdivision (e), the  
23 prosecuting attorney fails to appear and object to a petition for  
24 dismissal, the prosecuting attorney shall not move to set aside or  
25 otherwise appeal the grant of that petition.

26 (g) Relief granted pursuant to this section does not release the  
27 defendant from the terms and conditions of any unexpired criminal  
28 protective orders that have been issued by the court pursuant to  
29 paragraph (1) of subdivision (i) ~~of~~ *of, or subdivision (j) of*, Section  
30 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section  
31 368, or subdivision (k) of Section 646.9. These protective orders  
32 shall remain in full effect until expiration or until any further order  
33 by the court modifying or terminating the order, despite the  
34 dismissal of the underlying accusation or information.

35 (h) Relief granted pursuant to this section does not affect the  
36 authority to receive, or take adverse action based on, criminal  
37 history information, including the authority to receive certified  
38 court records received or evaluated pursuant to Section 1522,  
39 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
40 pursuant to any statutory or regulatory provisions that incorporate

1 the criteria of those sections. Relief granted pursuant to this section  
2 does not make eligible a person who is otherwise ineligible under  
3 state or federal law or regulation to provide, or receive payment  
4 for providing, in-home supportive services and waiver personal  
5 care services pursuant to Article 7 (commencing with Section  
6 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and  
7 Institutions Code, or pursuant to Section 14132.95, 14132.952,  
8 14132.956, or 14132.97 of the Welfare and Institutions Code.

9 SEC. 8. Section 1203.425 of the Penal Code is amended to  
10 read:

11 1203.425. (a) (1) (A) Commencing October 1, 2024, and  
12 subject to an appropriation in the annual Budget Act, on a monthly  
13 basis, the Department of Justice shall review the records in the  
14 statewide criminal justice databases, and based on information in  
15 the state summary criminal history repository and the Supervised  
16 Release File, shall identify persons with convictions that meet the  
17 criteria set forth in subparagraph (B) and are eligible for automatic  
18 conviction record relief.

19 (B) A person is eligible for automatic conviction relief pursuant  
20 to this section if they meet all of the following conditions:

21 (i) The person is not required to register pursuant to the Sex  
22 Offender Registration Act.

23 (ii) The person does not have an active record for local, state,  
24 or federal supervision in the Supervised Release File.

25 (iii) Based upon the information available in the department's  
26 record, including disposition dates and sentencing terms, it does  
27 not appear that the person is currently serving a sentence for an  
28 offense and there is no indication of pending criminal charges.

29 (iv) The conviction meets either of the following criteria:

30 (I) The conviction occurred on or after January 1, 1973, and  
31 meets either of the following criteria:

32 (ia) The defendant was sentenced to probation and, based upon  
33 the disposition date and the term of probation specified in the  
34 department's records, appears to have completed their term of  
35 probation without revocation.

36 (ib) The defendant was convicted of an infraction or  
37 misdemeanor other than one eligible under sub-subclause (ia), and,  
38 based upon the disposition date and the term specified in the  
39 department's records, the defendant appears to have completed

1 their sentence, and at least one calendar year has elapsed since the  
2 date of judgment.

3 (II) The conviction occurred on or after January 1, 1973, the  
4 defendant was convicted of a felony other than one for which the  
5 defendant completed probation without revocation, and based upon  
6 the disposition date and the sentence specified in the department's  
7 records, appears to have completed all terms of incarceration,  
8 probation, mandatory supervision, postrelease community  
9 supervision, and parole, and a period of four years has elapsed  
10 since the date on which the defendant completed probation or  
11 supervision for that conviction and during which the defendant  
12 was not convicted of a new felony offense. This subclause does  
13 not apply to a conviction of a serious felony defined in subdivision  
14 (c) of Section 1192.7, a violent felony as defined in Section 667.5,  
15 or a felony offense requiring registration pursuant to Chapter 5.5  
16 (commencing with Section 290) of Title 9 of Part 1.

17 (2) (A) Except as specified in subdivision (b), the department  
18 shall grant relief, including dismissal of a conviction, to a person  
19 identified pursuant to paragraph (1) without requiring a petition  
20 or motion by a party for that relief if the relevant information is  
21 present in the department's electronic records.

22 (B) The state summary criminal history information shall  
23 include, directly next to or below the entry or entries regarding the  
24 person's criminal record, a note stating "relief granted," listing the  
25 date that the department granted relief and this section. This note  
26 shall be included in all statewide criminal databases with a record  
27 of the conviction.

28 (C) Except as otherwise provided in paragraph (4) and in Section  
29 13555 of the Vehicle Code, a person granted conviction relief  
30 pursuant to this section shall be released from all penalties and  
31 disabilities resulting from the offense of which the person has been  
32 convicted.

33 (3) (A) Commencing July 1, 2022, and subject to an  
34 appropriation in the annual Budget Act, on a monthly basis, the  
35 department shall electronically submit a notice to the superior court  
36 having jurisdiction over the criminal case, informing the court of  
37 all cases for which a complaint was filed in that jurisdiction and  
38 for which relief was granted pursuant to this section. Commencing  
39 on January 1, 2023, for any record retained by the court pursuant  
40 to Section 68152 of the Government Code, except as provided in



1 paragraph (4), the court shall not disclose information concerning  
2 a conviction granted relief pursuant to this section or Section  
3 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in  
4 any format, except to the person whose conviction was granted  
5 relief or a criminal justice agency, as defined in Section 851.92.

6 (B) If probation is transferred pursuant to Section 1203.9, the  
7 department shall electronically submit a notice as provided in  
8 subparagraph (A) to both the transferring court and any subsequent  
9 receiving court. The electronic notice shall be in a mutually agreed  
10 upon format.

11 (C) If a receiving court reduces a felony to a misdemeanor  
12 pursuant to subdivision (b) of Section 17, or dismisses a conviction  
13 pursuant to law, including, but not limited to, Section 1203.4,  
14 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish  
15 a disposition report to the department with the original case number  
16 and CII number from the transferring court. The department shall  
17 electronically submit a notice to the superior court that sentenced  
18 the defendant. If probation is transferred multiple times, the  
19 department shall electronically submit a notice to all other involved  
20 courts. The electronic notice shall be in a mutually agreed upon  
21 format.

22 (D) If a court receives notification from the department pursuant  
23 to subparagraph (B), the court shall update its records to reflect  
24 the reduction or dismissal. If a court receives notification that a  
25 case was dismissed pursuant to this section or Section 1203.4,  
26 1203.4a, 1203.41, or 1203.42, the court shall update its records to  
27 reflect the dismissal and shall not disclose information concerning  
28 a conviction granted relief to any person or entity, in any format,  
29 except to the person whose conviction was granted relief or a  
30 criminal justice agency, as defined in Section 851.92.

31 (4) Relief granted pursuant to this section is subject to the  
32 following conditions:

33 (A) Relief granted pursuant to this section does not relieve a  
34 person of the obligation to disclose a criminal conviction in  
35 response to a direct question contained in a questionnaire or  
36 application for employment as a peace officer, as defined in Section  
37 830.

38 (B) Relief granted pursuant to this section does not relieve a  
39 person of the obligation to disclose the conviction in response to  
40 a direct question contained in a questionnaire or application for

1 public office, for enrollment as a provider of in-home supportive  
2 services and waiver personal care services pursuant to Article 7  
3 (commencing with Section 12300) of Chapter 3 of Part 3 of  
4 Division 9 of the Welfare and Institutions Code or pursuant to  
5 Section 14132.95, 14132.952, 14132.956, or 14132.97 of the  
6 Welfare and Institutions Code, or for contracting with the  
7 California State Lottery Commission.

8 (C) Relief granted pursuant to this section has no effect on the  
9 ability of a criminal justice agency, as defined in Section 851.92,  
10 to access and use records that are granted relief to the same extent  
11 that would have been permitted for a criminal justice agency had  
12 relief not been granted.

13 (D) Relief granted pursuant to this section does not limit the  
14 jurisdiction of the court over a subsequently filed motion to amend  
15 the record, petition or motion for postconviction relief, or collateral  
16 attack on a conviction for which relief has been granted pursuant  
17 to this section.

18 (E) Relief granted pursuant to this section does not affect a  
19 person's authorization to own, possess, or have in the person's  
20 custody or control a firearm, or the person's susceptibility to  
21 conviction under Chapter 2 (commencing with Section 29800) of  
22 Division 9 of Title 4 of Part 6, if the criminal conviction would  
23 otherwise affect this authorization or susceptibility.

24 (F) Relief granted pursuant to this section does not affect a  
25 prohibition from holding public office that would otherwise apply  
26 under law as a result of the criminal conviction.

27 (G) Relief granted pursuant to this section does not release a  
28 person from the terms and conditions of any unexpired criminal  
29 protective order that has been issued by the court pursuant to  
30 paragraph (1) of subdivision (i) ~~of~~ *of, or subdivision (j) of*, Section  
31 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section  
32 368, or subdivision (k) of Section 646.9. These protective orders  
33 shall remain in full effect until expiration or until any further order  
34 by the court modifying or terminating the order, despite the  
35 dismissal of the underlying conviction.

36 (H) Relief granted pursuant to this section does not affect the  
37 authority to receive, or take adverse action based on, criminal  
38 history information, including the authority to receive certified  
39 court records received or evaluated pursuant to Section 1522,  
40 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or

1 pursuant to any statutory or regulatory provisions that incorporate  
2 the criteria of those sections.

3 (I) Relief granted pursuant to this section does not make eligible  
4 a person who is otherwise ineligible under state or federal law or  
5 regulation to provide, or receive payment for providing, in-home  
6 supportive services and waiver personal care services pursuant to  
7 Article 7 (commencing with Section 12300) of Chapter 3 of Part  
8 3 of Division 9 of the Welfare and Institutions Code, or pursuant  
9 to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the  
10 Welfare and Institutions Code.

11 (J) In a subsequent prosecution of the defendant for any other  
12 offense, the prior conviction may be pleaded and proved and shall  
13 have the same effect as if the relief had not been granted.

14 (K) (i) Relief granted pursuant to this section does not affect  
15 the authority to receive, or take adverse action based on, criminal  
16 history information, including the authority to receive certified  
17 court records received or evaluated pursuant to Article 1  
18 (commencing with Section 44000) of Chapter 1, Article 3  
19 (commencing with Section 44240) and Article 8 (commencing  
20 with Section 44330) of Chapter 2, Article 1 (commencing with  
21 Section 44420) of Chapter 3, Article 3 (commencing with Section  
22 44930) of Chapter 4, Article 1 (commencing with Section 45100)  
23 and Article 6 (commencing with Section 45240) of Chapter 5, of  
24 Part 25 of Division 3 of Title 2 of the Education Code, or pursuant  
25 to any statutory or regulatory provisions that relate to, incorporate,  
26 expand upon, or interpret the authority of those provisions.

27 (ii) Notwithstanding clause (i) or any other law, information for  
28 a conviction for a controlled substance offense listed in Section  
29 11350 or 11377, or former Section 11500 or 11500.5, of the Health  
30 and Safety Code that is more than five years old, for which relief  
31 is granted pursuant to this section, shall not be disclosed.

32 (L) Relief granted pursuant to this section does not release the  
33 defendant from the terms and conditions of any unexpired criminal  
34 protective orders that have been issued by the court pursuant to  
35 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)  
36 of Section 273.5, subdivision (l) of Section 368, or subdivision  
37 (k) of Section 646.9. These protective orders shall remain in full  
38 effect until expiration or until any further order by the court  
39 modifying or terminating the order, despite the dismissal of the  
40 underlying accusation or information.

(5) This section does not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.49, and 1473.7. This section does not limit petitions for a certificate of rehabilitation or pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3.

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, the department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (b), on the OpenJustice Web portal, as defined in Section 13010.

(7) Upon request from the subject of the record for a copy of their state summary criminal history information record made in accordance with Sections 11122 and 11123, the department shall furnish a copy of the record to the subject of the record or to an individual designated by them in accordance with Section 11124 to provide confirmation that relief was granted pursuant to this section.

(b) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history

1 information, or any other evidence submitted by the parties that  
2 is material, reliable, and relevant.

3 (4) The prosecutor or probation department has the initial burden  
4 of proof to show that granting conviction relief would pose a  
5 substantial threat to the public safety. In determining whether  
6 granting relief would pose a substantial threat to the public safety,  
7 the court may consider any relevant factors, including, but not  
8 limited to, either of the following:

9 (A) Declarations or evidence regarding the offense for which a  
10 grant of relief is being contested.

11 (B) The defendant's record of arrests and convictions.

12 (5) If the court finds that the prosecutor or probation department  
13 has satisfied the burden of proof, the burden shifts to the defendant  
14 to show that the hardship of not obtaining relief outweighs the  
15 threat to the public safety of providing relief. In determining  
16 whether the defendant's hardship outweighs the threat to the public  
17 safety, the court may consider any relevant factors, including, but  
18 not limited to, either of the following:

19 (A) The hardship to the defendant that has been caused by the  
20 conviction and that would be caused if relief is not granted.

21 (B) Declarations or evidence regarding the defendant's good  
22 character.

23 (6) If the court grants a petition pursuant to this subdivision,  
24 the court shall furnish a disposition report to the Department of  
25 Justice pursuant to Section 13151, stating that relief pursuant to  
26 this section was denied, and the department shall not grant relief  
27 pursuant to this section. If probation was transferred pursuant to  
28 Section 1203.9, the department shall electronically submit a notice  
29 to the transferring court, and, if probation was transferred multiple  
30 times, to all other involved courts.

31 (7) A person denied relief pursuant to this section may continue  
32 to be eligible for relief pursuant to law, including, but not limited  
33 to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court  
34 subsequently grants relief pursuant to one of those sections, the  
35 court shall furnish a disposition report to the Department of Justice  
36 pursuant to Section 13151, stating that relief was granted pursuant  
37 to the applicable section, and the department shall grant relief  
38 pursuant to that section. If probation was transferred pursuant to  
39 Section 1203.9, the department shall electronically submit a notice  
40 that relief was granted pursuant to the applicable section to the

1 transferring court and, if probation was transferred multiple times,  
2 to all other involved courts.

3 (c) At the time of sentencing, the court shall advise a defendant,  
4 either orally or in writing, of the provisions of this section and of  
5 the defendant's right, if any, to petition for a certificate of  
6 rehabilitation and pardon.

7 ~~(d) This section shall become operative on October 1, 2024.~~

8 SEC. 9. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.