

Introduced by Senator Durazo

February 21, 2025

An act to amend Section 1203.425 of the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 834, as amended, Durazo. Criminal records: relief.

Existing law, subject to an appropriation, requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for automatic conviction record relief. Under existing law, a person is eligible for automatic conviction record relief if the person meets certain requirements, including that it does not appear, based upon information available in the Department of Justice's record, that the person is currently serving a sentence of an offense and there is no indication of pending criminal charges.

This bill would require, in determining whether there is a pending criminal charge based on the department's records, the department to conclude that there is no indication of pending criminal charges if at least 3 years have elapsed with no new activity related to that record.

Existing law, subject to an appropriation, on a monthly basis, requires the department to electronically submit a notice to the superior court having jurisdiction over the criminal case and inform the court of all cases for which a complaint was filed and for which relief was granted pursuant to the provisions above. Existing law, for any certain record retained by the court, prohibits the court from disclosing information concerning a conviction granted relief pursuant to specified provisions,

including the above provisions, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency.

This bill would require local summary criminal history information provided by the court to any recipient to include notes for any entries for which relief has been granted indicating that relief has been granted pursuant to the above provisions and listing the date the court received notice from the department. The bill would require this note to be included in all local criminal databases maintained by the court.

This bill would also require a court, upon the request of the subject of a record granted relief, to furnish a certificate of disposition confirming the court's receipt of notification and compliance with a grant of relief for a specified record granted relief under the above provisions.

By placing additional duties on court staff, this bill would create 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, 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.

~~Existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for automatic conviction record relief based on specified criteria.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

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

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

- 1 SECTION 1. Section 1203.425 of the Penal Code is amended
- 2 to read:
- 3 1203.425. (a) (1) (A) Commencing October 1, 2024, and
- 4 subject to an appropriation in the annual Budget Act, on a monthly
- 5 basis, the Department of Justice shall review the records in the

1 statewide criminal justice databases, and based on information in
2 the state summary criminal history repository and the Supervised
3 Release File, shall identify persons with convictions that meet the
4 criteria set forth in subparagraph (B) and are eligible for automatic
5 conviction record relief.

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

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

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

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

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

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

19 (ia) The defendant was sentenced to probation and, based upon
20 the disposition date and the term of probation specified in the
21 department's records, appears to have completed their term of
22 probation without revocation.

23 (ib) The defendant was convicted of an infraction or
24 misdemeanor other than one eligible under sub-subclause (ia), and,
25 based upon the disposition date and the term specified in the
26 department's records, the defendant appears to have completed
27 their sentence, and at least one calendar year has elapsed since the
28 date of judgment.

29 (II) The conviction occurred on or after January 1, 1973, the
30 defendant was convicted of a felony other than one for which the
31 defendant completed probation without revocation, and based upon
32 the disposition date and the sentence specified in the department's
33 records, appears to have completed all terms of incarceration,
34 probation, mandatory supervision, postrelease community
35 supervision, and parole, and a period of four years has elapsed
36 since the date on which the defendant completed probation or
37 supervision for that conviction and during which the defendant
38 was not convicted of a new felony offense. This subclause does
39 not apply to a conviction of a serious felony defined in subdivision
40 (c) of Section 1192.7, a violent felony as defined in Section 667.5,

1 or a felony offense requiring registration pursuant to Chapter 5.5
2 (commencing with Section 290) of Title 9 of Part 1.

3 *(C) For the purposes of determining whether there are pending*
4 *criminal charges as provided in clause (iii) of subparagraph (B),*
5 *if at least three years have elapsed with no new activity related to*
6 *that record, the department shall conclude that there is no*
7 *indication of pending criminal charges.*

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

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

19 (C) Except as otherwise provided in paragraph (4) and in Section
20 13555 of the Vehicle Code, a person granted conviction relief
21 pursuant to this section shall be released from all penalties and
22 disabilities resulting from the offense of which the person has been
23 convicted.

24 (3) (A) Commencing July 1, 2022, and subject to an
25 appropriation in the annual Budget Act, on a monthly basis, the
26 department shall electronically submit a notice to the superior court
27 having jurisdiction over the criminal case, informing the court of
28 all cases for which a complaint was filed in that jurisdiction and
29 for which relief was granted pursuant to this section. Commencing
30 on January 1, 2023, for any record retained by the court pursuant
31 to Section 68152 of the Government Code, except as provided in
32 paragraph (4), the court shall not disclose information concerning
33 a conviction granted relief pursuant to this section or Section
34 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in
35 any format, except to the person whose conviction was granted
36 relief or a criminal justice agency, as defined in Section 851.92.
37 *Local summary criminal history information provided by the court*
38 *to any recipient shall include notes for any entries for which relief*
39 *has been granted pursuant to this section indicating that relief has*
40 *been granted pursuant to this section and listing the date the court*

1 *received notice from the department. This note shall be included*
2 *in all local criminal databases maintained by the court.*

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

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

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

28 (4) Relief granted pursuant to this section is subject to the
29 following conditions:

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

35 (B) Relief granted pursuant to this section does not relieve a
36 person of the obligation to disclose the conviction in response to
37 a direct question contained in a questionnaire or application for
38 public office, for enrollment as a provider of in-home supportive
39 services and waiver personal care services pursuant to Article 7
40 (commencing with Section 12300) of Chapter 3 of Part 3 of

1 Division 9 of the Welfare and Institutions Code or pursuant to
2 Section 14132.95, 14132.952, 14132.956, or 14132.97 of the
3 Welfare and Institutions Code, or for contracting with the
4 California State Lottery Commission.

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

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

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

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

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

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

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

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

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

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

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

39 (5) This section does not limit petitions, motions, or orders for
40 relief in a criminal case, as required or authorized by any other

1 law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a,
2 1203.4b, 1203.41, 1203.42, 1203.49, and 1473.7. This section does
3 not limit petitions for a certificate of rehabilitation or pardon
4 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
5 Title 6 of Part 3.

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

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

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

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

32 (3) At a hearing on the petition pursuant to this subdivision, the
33 defendant, the probation department, the prosecuting attorney, and
34 the arresting agency, through the prosecuting attorney, may present
35 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
36 the hearing may be heard and determined upon declarations,
37 affidavits, police investigative reports, copies of state summary
38 criminal history information and local summary criminal history
39 information, or any other evidence submitted by the parties that
40 is material, reliable, and relevant.

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

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

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

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

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

19 (B) Declarations or evidence regarding the defendant's good
20 character.

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

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

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

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

6 *(d) Upon the request of the subject of a record granted relief*
7 *under this section, a court shall furnish a certificate of disposition*
8 *confirming the court's receipt of notification and compliance with*
9 *a grant of relief for a specified record granted relief under this*
10 *section.*

11 *SEC. 2. If the Commission on State Mandates determines that*
12 *this act contains costs mandated by the state, reimbursement to*
13 *local agencies and school districts for those costs shall be made*
14 *pursuant to Part 7 (commencing with Section 17500) of Division*
15 *4 of Title 2 of the Government Code.*