
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 introduced, Durazo. Criminal records: relief.

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.
State-mandated local program: no.

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

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

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

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

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

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

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

14 (ia) The defendant was sentenced to probation and, based upon
15 the disposition date and the term of probation specified in the
16 department's records, appears to have completed their term of
17 probation without revocation.

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

24 (II) The conviction occurred on or after January 1, 1973, the
25 defendant was convicted of a felony other than one for which the
26 defendant completed probation without revocation, and based upon
27 the disposition date and the sentence specified in the department's
28 records, appears to have completed all terms of incarceration,
29 probation, mandatory supervision, postrelease community
30 supervision, and parole, and a period of four years has elapsed
31 since the date on which the defendant completed probation or
32 supervision for that conviction and during which the defendant
33 was not convicted of a new felony offense. This subclause does
34 not apply to a conviction of a serious felony defined in subdivision
35 (c) of Section 1192.7, a violent felony as defined in Section 667.5,
36 or a felony offense requiring registration pursuant to Chapter 5.5
37 (commencing with Section 290) of Title 9 of Part 1.

38 (2) (A) Except as specified in subdivision (b), the department
39 shall grant relief, including dismissal of a conviction, to a person
40 identified pursuant to paragraph (1) without requiring a petition

1 or motion by a party for that relief if the relevant information is
2 present in the department's electronic records.

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

9 (C) Except as otherwise provided in paragraph (4) and in Section
10 13555 of the Vehicle Code, a person granted conviction relief
11 pursuant to this section shall be released from all penalties and
12 disabilities resulting from the offense of which the person has been
13 convicted.

14 (3) (A) Commencing July 1, 2022, and subject to an
15 appropriation in the annual Budget Act, on a monthly basis, the
16 department shall electronically submit a notice to the superior court
17 having jurisdiction over the criminal case, informing the court of
18 all cases for which a complaint was filed in that jurisdiction and
19 for which relief was granted pursuant to this section. Commencing
20 on January 1, 2023, for any record retained by the court pursuant
21 to Section 68152 of the Government Code, except as provided in
22 paragraph (4), the court shall not disclose information concerning
23 a conviction granted relief pursuant to this section or Section
24 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in
25 any format, except to the person whose conviction was granted
26 relief or a criminal justice agency, as defined in Section 851.92.

27 (B) If probation is transferred pursuant to Section 1203.9, the
28 department shall electronically submit a notice as provided in
29 subparagraph (A) to both the transferring court and ~~any~~ a
30 subsequent receiving court. The electronic notice shall be in a
31 mutually agreed upon format.

32 (C) If a receiving court reduces a felony to a misdemeanor
33 pursuant to subdivision (b) of Section 17, or dismisses a conviction
34 pursuant to law, including, but not limited to, Section 1203.4,
35 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish
36 a disposition report to the department with the original case number
37 and CII number from the transferring court. The department shall
38 electronically submit a notice to the superior court that sentenced
39 the defendant. If probation is transferred multiple times, the
40 department shall electronically submit a notice to all other involved

1 courts. The electronic notice shall be in a mutually agreed upon
2 format.

3 (D) If a court receives notification from the department pursuant
4 to subparagraph (B), the court shall update its records to reflect
5 the reduction or dismissal. If a court receives notification that a
6 case was dismissed pursuant to this section or Section 1203.4,
7 1203.4a, 1203.41, or 1203.42, the court shall update its records to
8 reflect the dismissal and shall not disclose information concerning
9 a conviction granted relief to any person or entity, in any format,
10 except to the person whose conviction was granted relief or a
11 criminal justice agency, as defined in Section 851.92.

12 (4) Relief granted pursuant to this section is subject to the
13 following conditions:

14 (A) Relief granted pursuant to this section does not relieve a
15 person of the obligation to disclose a criminal conviction in
16 response to a direct question contained in a questionnaire or
17 application for employment as a peace officer, as defined in Section
18 830.

19 (B) Relief granted pursuant to this section does not relieve a
20 person of the obligation to disclose the conviction in response to
21 a direct question contained in a questionnaire or application for
22 public office, for enrollment as a provider of in-home supportive
23 services and waiver personal care services pursuant to Article 7
24 (commencing with Section 12300) of Chapter 3 of Part 3 of
25 Division 9 of the Welfare and Institutions Code or pursuant to
26 Section 14132.95, 14132.952, 14132.956, or 14132.97 of the
27 Welfare and Institutions Code, or for contracting with the
28 California State Lottery Commission.

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

34 (D) Relief granted pursuant to this section does not limit the
35 jurisdiction of the court over a subsequently filed motion to amend
36 the record, petition or motion for postconviction relief, or collateral
37 attack on a conviction for which relief has been granted pursuant
38 to this section.

39 (E) Relief granted pursuant to this section does not affect a
40 person's authorization to own, possess, or have in the person's

1 custody or control a firearm, or the person's susceptibility to
2 conviction under Chapter 2 (commencing with Section 29800) of
3 Division 9 of Title 4 of Part 6, if the criminal conviction would
4 otherwise affect this authorization or susceptibility.

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

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

17 (H) Relief granted pursuant to this section does not affect the
18 authority to receive, or take adverse action based on, criminal
19 history information, including the authority to receive certified
20 court records received or evaluated pursuant to Section 1522,
21 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
22 pursuant to any statutory or regulatory provisions that incorporate
23 the criteria of those sections.

24 (I) Relief granted pursuant to this section does not make eligible
25 a person who is otherwise ineligible under state or federal law or
26 regulation to provide, or receive payment for providing, in-home
27 supportive services and waiver personal care services pursuant to
28 Article 7 (commencing with Section 12300) of Chapter 3 of Part
29 3 of Division 9 of the Welfare and Institutions Code, or pursuant
30 to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the
31 Welfare and Institutions Code.

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

35 (K) (i) Relief granted pursuant to this section does not affect
36 the 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 Article 1
39 (commencing with Section 44000) of Chapter 1, Article 3
40 (commencing with Section 44240) and Article 8 (commencing

1 with Section 44330) of Chapter 2, Article 1 (commencing with
2 Section 44420) of Chapter 3, Article 3 (commencing with Section
3 44930) of Chapter 4, Article 1 (commencing with Section 45100)
4 and Article 6 (commencing with Section 45240) of Chapter 5, of
5 Part 25 of Division 3 of Title 2 of the Education Code, or pursuant
6 to any statutory or regulatory provisions that relate to, incorporate,
7 expand upon, or interpret the authority of those provisions.

8 (ii) Notwithstanding clause (i) or any other law, information for
9 a conviction for a controlled substance offense listed in Section
10 11350 or 11377, or former Section 11500 or 11500.5, of the Health
11 and Safety Code that is more than five years old, for which relief
12 is granted pursuant to this section, shall not be disclosed.

13 (L) Relief granted pursuant to this section does not release the
14 defendant from the terms and conditions of any unexpired criminal
15 protective orders that have been issued by the court pursuant to
16 paragraph (1) of subdivision (i) of Section 136.2, subdivision (j)
17 of Section 273.5, subdivision (l) of Section 368, or subdivision
18 (k) of Section 646.9. These protective orders shall remain in full
19 effect until expiration or until any further order by the court
20 modifying or terminating the order, despite the dismissal of the
21 underlying accusation or information.

22 (5) This section does not limit petitions, motions, or orders for
23 relief in a criminal case, as required or authorized by any other
24 law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a,
25 1203.4b, 1203.41, 1203.42, 1203.49, and 1473.7. This section does
26 not limit petitions for a certificate of rehabilitation or pardon
27 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
28 Title 6 of Part 3.

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

36 (7) Upon request from the subject of the record for a copy of
37 their state summary criminal history information record made in
38 accordance with Sections 11122 and 11123, the department shall
39 furnish a copy of the record to the subject of the record or to an
40 individual designated by them in accordance with Section 11124

1 to provide confirmation that relief was granted pursuant to this
2 section.

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

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

15 (3) At a hearing on the petition pursuant to this subdivision, the
16 defendant, the probation department, the prosecuting attorney, and
17 the arresting agency, through the prosecuting attorney, may present
18 evidence to the court. Notwithstanding Sections 1538.5 and 1539,
19 the hearing may be heard and determined upon declarations,
20 affidavits, police investigative reports, copies of state summary
21 criminal history information and local summary criminal history
22 information, or any other evidence submitted by the parties that
23 is material, reliable, and relevant.

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

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

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

33 (5) If the court finds that the prosecutor or probation department
34 has satisfied the burden of proof, the burden shifts to the defendant
35 to show that the hardship of not obtaining relief outweighs the
36 threat to the public safety of providing relief. In determining
37 whether the defendant's hardship outweighs the threat to the public
38 safety, the court may consider any relevant factors, including, but
39 not limited to, either of the following:

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

3 (B) Declarations or evidence regarding the defendant's good
4 character.

5 (6) If the court grants a petition pursuant to this subdivision,
6 the court shall furnish a disposition report to the Department of
7 Justice pursuant to Section 13151, stating that relief pursuant to
8 this section was denied, and the department shall not grant relief
9 pursuant to this section. If probation was transferred pursuant to
10 Section 1203.9, the department shall electronically submit a notice
11 to the transferring court, and, if probation was transferred multiple
12 times, to all other involved courts.

13 (7) A person denied relief pursuant to this section may continue
14 to be eligible for relief pursuant to law, including, but not limited
15 to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court
16 subsequently grants relief pursuant to one of those sections, the
17 court shall furnish a disposition report to the Department of Justice
18 pursuant to Section 13151, stating that relief was granted pursuant
19 to the applicable section, and the department shall grant relief
20 pursuant to that section. If probation was transferred pursuant to
21 Section 1203.9, the department shall electronically submit a notice
22 that relief was granted pursuant to the applicable section to the
23 transferring court and, if probation was transferred multiple times,
24 to all other involved courts.

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

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