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AB-791 Postconviction bail. (2023-2024)

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Assembly Bill No. 791

CHAPTER 545

An act to amend Sections 1166 and 1272 of the Penal Code, relating to bail.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 791, Ramos. Postconviction bail.

Existing law requires a defendant out on bail, if a verdict is rendered against them, to be committed to the custody of the county to await judgment of the court upon the verdict, unless the court concludes that various factors, including the protection of the public and the probability of the defendant failing to appear, support a decision to allow the defendant to remain out on bail. Existing law gives a defendant convicted of an offense who has made an application for probation or who has appealed a right to be admitted to bail in misdemeanor or infraction cases. Existing law authorizes the court to admit a defendant convicted of an offense not punishable with death to bail in all other cases.

This bill would prohibit a person convicted of an offense punishable by life without the possibility of parole from being released on bail. By requiring county jails to hold additional defendants, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1166 of the Penal Code is amended to read:

1166. (a) Except as provided in subdivision (b), if a general verdict is rendered against the defendant, or a special verdict is given, they shall be remanded, if in custody, or if on bail they shall be committed to the proper officer of the county to await the judgment of the court upon the verdict, unless, upon considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety, the court concludes the evidence supports its decision to allow the defendant to remain out on bail.

(b) The judicial officer shall order that a person who has been found guilty of an offense punishable by life in prison without the possibility of parole or death, and is awaiting imposition or execution of sentence, be remanded.

(c) When a defendant is committed or remanded pursuant to this section, their bail is exonerated, or if money is deposited instead of bail, it shall be refunded to the defendant or to the person who deposited money on behalf of the defendant.

SEC. 2. Section 1272 of the Penal Code is amended to read:

1272. After conviction of an offense not punishable with death or life without the possibility of parole, a defendant who has made application for probation or who has appealed may be admitted to bail:

(a) As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing a fine only.

(b) As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing imprisonment in cases of misdemeanors.

(c) As a matter of discretion in all other cases, except that a person convicted of an offense subject to this subdivision, who makes a motion for release on bail subsequent to a sentencing hearing, shall provide notice of the hearing on the bail motion to the prosecuting attorney at least five court days prior to the hearing.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.