



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2483 Postconviction proceedings. (2023-2024)

SHARE THIS:  

Date Published: 09/30/2024 09:00 PM

Assembly Bill No. 2483

CHAPTER 964

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

[Approved by Governor September 29, 2024. Filed with Secretary of State September 29, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, Ting. Postconviction proceedings.

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circumstances, including, among others, when the person was convicted of specified crimes that have since been repealed or had their sentences reduced.

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

This bill would require, upon request from the defendant, the district attorney of the county in which the defendant was sentenced, or the Attorney General if the Department of Justice originally prosecuted the case, the Department of Corrections and Rehabilitation to provide to the requesting party specified records, including disciplinary records, as specified. The bill would require the department to designate a person for each prison as a point of contact for records, transportation, or inquiries pursuant to these provisions. The bill would require the department to regularly maintain a public directory of each designated person.

Existing law, when a probationary order or a judgment has been pronounced, requires that a copy of that order or judgment be sent to the officer whose duty it is to execute the order or judgment, as specified.

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

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

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

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

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

- (a) For the last decade, California has authorized thousands of incarcerated people to return to court to have their sentences reconsidered and reduced.
- (b) According to the Committee on Revision of the Penal Code, the adoption of new ameliorative sentencing legislation on a regular basis has left courts and practitioners with little specific guidance for how to put the new laws into practice, resulting in wide variation and inefficiency across the state.
- (c) Creating uniform resentencing procedures would help resolve cases efficiently and consistently across the state while reducing costly litigation.

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

1171. (a) For the purposes of this section, "postconviction proceeding" means a proceeding to modify a sentence or conviction pursuant to an ameliorative statute. Ameliorative statutes include, but are not limited to, Sections 1170.18, 1172.1, 1172.6, 1172.7, and 1172.75.

(b) On or before March 1, 2025, the presiding judge of each county superior court, or their designee, shall convene a meeting to develop a plan for fair and efficient handling of postconviction proceedings. The presiding judge shall invite to the meeting a representative from the district attorney, the public defender or other representative of indigent defense services, and other entities that the presiding judge deems necessary in order to ensure timely and efficient postconviction proceedings. At the meeting, the presiding judge or their designee shall determine how postconviction proceedings will be assigned to individual judges, including whether they will take place before the original sentencing judge or designated judge. The presiding judge may set further meetings at their discretion.

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

(1) Upon receiving a request to begin a postconviction proceeding that is authorized in law, the court shall consider whether to appoint counsel to represent the defendant. This section does not prevent the court from assigning counsel at a later time.

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

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

(4) The court shall state on the record the reasons for its decision to grant or deny the initial request to begin a postconviction proceeding and shall provide notice to the defendant of its decision.

(5) After ruling on a request, the court shall advise the defendant of their right to appeal and the necessary steps and time for taking an appeal.

(6) The parties may waive a hearing and proceed directly to the resentencing. A defendant may waive their personal presence at a resentencing hearing and may appear via remote technology. If a victim of a crime wishes to be heard pursuant to the provisions of Section 28 of Article I of the California Constitution, or pursuant to any other provision of law applicable to the hearing, the victim shall notify the prosecution of their request to be heard within 15 days of being notified that resentencing is being sought and the court shall provide an opportunity for the victim to be heard.

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

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

(7) (A) Notwithstanding any other law, including Sections 13201 and 11081, and Sections 1798.24 and 1798.34 of the Civil Code, upon request from the defendant's attorney, the district attorney of the county in which the defendant was sentenced, or the Attorney General if the Department of Justice originally prosecuted the case, the Department of Corrections and Rehabilitation shall, in accordance with this subparagraph and subparagraph (C), provide to the requesting party a case summary, disciplinary records, programming records, chronos, and any other material the department deems relevant to a postconviction proceeding.

(B) For requests submitted on or after January 1, 2026, the records shall be provided within 45 days of the request unless the requestor agrees to extend this period. The records shall be provided in a secure electronic format. This section does not diminish the ability of parties or the court to request additional records, which shall be provided by the department as soon as is practicable.

(C) If the Department of Corrections and Rehabilitation has in its possession relevant records it has determined are confidential under the department's regulations, the department shall redact such portions before producing the records to the requestor.

(D) Any party may file a motion with the court presiding over a postconviction proceeding seeking disclosure of anything redacted under subparagraph (C). In addition to the parties required to be served such a motion, service is required upon the Department of Corrections and Rehabilitation through the person designated under subdivision (d). The court shall determine whether good cause exists for in-camera review of the redacted material. If the court determines that good cause exists for in-camera review, the department shall provide the unredacted material for in-camera review within seven days. After an in-camera review, the court shall order disclosure of any redacted material that may be relevant to the postconviction proceeding and issue an appropriate protective order limiting the use and scope of the disclosure.

(E) To protect personal privacy and other legitimate interests, each party shall redact sensitive information as required by state and federal law and rules of court from all pleadings and other papers filed in the court's public file, whether filed in paper or electronic form, under this section.

(F) The Department of Corrections and Rehabilitation shall promulgate regulations to implement subparagraphs (A) to (C), inclusive.

(f) The Department of Corrections and Rehabilitation shall designate a person for each prison as a point of contact for records, transportation, or inquiries pursuant to this section. The department shall regularly maintain a public directory of each person designated pursuant to this subdivision, including contact information.

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

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

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

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

(2) When a person has been resentenced and there is a reasonable basis to believe the remaining time to serve in custody is less than 30 days, the information described in paragraph (1) shall be furnished to the executing officer within 24 hours. The information may be furnished by electronic means.

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

SEC. 4. 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.