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**AB-812 Recall and resentencing: incarcerated firefighters.** (2025-2026)

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**Assembly Bill No. 812**

**CHAPTER 712**

An act to amend Section 1172.1 of the Penal Code, relating to criminal procedure.

[ Approved by Governor October 13, 2025. Filed with Secretary of State October 13, 2025. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 812, Lowenthal. Recall and resentencing: incarcerated firefighters.

Existing law authorizes a court, on its own motion within 120 days of the date of the defendant's commitment, or at any time if the applicable sentencing laws have changed or upon a recommendation from the Secretary of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the district attorney, to recall a defendant's sentence and resentence that defendant to a lesser sentence.

Existing law establishes the California Conservation Camps for the purpose of having incarcerated persons work on projects supervised by the Department of Forestry and Fire Protection. Existing law requires the department to utilize incarcerated persons assigned to conservation camps in performing fire prevention, fire control, and other work at the department.

This bill would require the Department of Corrections and Rehabilitation, no later than July 1, 2027, to promulgate regulations, as specified, regarding the referral of participants in the California Conservation Camp program and incarcerated persons working at institutional firehouses for resentencing.

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

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

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

(a) The Department of Corrections and Rehabilitation (CDCR), in cooperation with the Department of Forestry and Fire Protection and the Los Angeles County Fire Department, operates 35 conservation camps throughout California. All camps are minimum security facilities and staffed with correctional staff.

(b) The primary mission of the California Conservation Camp program is to support state, local, and federal government agencies as they respond to emergencies, including fires, floods, and other natural disasters.

(c) CDCR health care staff clear participants as physically and mentally fit for vigorous activity to participate in the program. Additionally, inmates, based on behavior in prison, have the lowest security classification. Inmates with more than eight years remaining on their sentence are ineligible to participate.

(d) The work is extraordinarily dangerous. Multiple inmates have died fighting fires.

(e) Hundreds of incarcerated firefighters worked, around the clock, to help slow the spread of the massive fires in January 2025 in Los Angeles County. These volunteer firefighters cut fire lines and removed fuel to slow the fire spread.

(f) According to the Secretary of the CDCR, Jeff Macomber, the incarcerated workers are an “essential” part of the state’s response and “their commitment to protecting lives and property during these emergencies cannot be overstated.”

**SEC. 2.** Section 1172.1 of the Penal Code is amended to read:

**1172.1.** (a) (1) When a defendant, upon conviction for a felony offense, has been committed to the custody of the Secretary of the Department of Corrections and Rehabilitation or to the custody of the county correctional administrator pursuant to subdivision (h) of Section 1170, the court may, on its own motion, within 120 days of the date of commitment or at any time if the applicable sentencing laws at the time of original sentencing are subsequently changed by new statutory authority or case law, at any time upon the recommendation of the secretary or the Board of Parole Hearings in the case of a defendant incarcerated in state prison, the county correctional administrator in the case of a defendant incarcerated in county jail, 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, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if they had not previously been sentenced, whether or not the defendant is still in custody, and provided the new sentence, if any, is no greater than the initial sentence. Recall and resentencing under this section may be initiated by the original sentencing judge, a judge designated by the presiding judge, or any judge with jurisdiction in the case.

(2) The court, in recalling and resentencing pursuant to this subdivision, shall apply the sentencing rules of the Judicial Council and apply any changes in law that reduce sentences or provide for judicial discretion so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(3) The resentencing court may, in the interest of justice and regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:

(A) Reduce a defendant’s term of imprisonment by modifying the sentence.

(B) Vacate the defendant’s conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, with the concurrence of the defendant, and then resentence the defendant to a reduced term of imprisonment.

(4) If the court has recalled the sentence on its own motion, the court shall not impose a judgment on any necessarily included lesser offense or lesser related offense if the conviction was a result of a plea bargain without the concurrence of both the defendant and 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.

(5) In recalling and resentencing pursuant to this provision, the court shall consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant’s risk for future violence, and evidence that reflects that circumstances have changed since the original sentencing so that continued incarceration is no longer in the interest of justice. Evidence that the defendant’s incarceration is no longer in the interest of justice includes, but is not limited to, evidence that the defendant’s constitutional rights were violated in the proceedings related to the conviction or sentence at issue, and any other evidence that undermines the integrity of the underlying conviction or sentence. The court shall consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a youth as defined under subdivision (b) of Section 1016.7 at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense.

(6) Credit shall be given for time served.

(7) The court shall state on the record the reasons for its decision to grant or deny recall and resentencing.

(8) (A) Resentencing may be granted without a hearing upon stipulation by the parties.

(B) Notwithstanding subparagraph (A), 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.

(9) Resentencing shall not be denied, nor a stipulation rejected, without a hearing where the parties have an opportunity to address the basis for the intended denial or rejection. If a hearing is held, the defendant may appear remotely and the court

may conduct the hearing through the use of remote technology, unless counsel requests their physical presence in court.

(b) If a resentencing request pursuant to subdivision (a) is from the Secretary of the Department of Corrections and Rehabilitation, the Board of Parole Hearings, a county correctional administrator, a district attorney, or the Attorney General, all of the following shall apply:

(1) The court shall provide notice to the defendant and set a status conference within 30 days after the date that the court received the request. The court's order setting the conference shall also appoint counsel to represent the defendant.

(2) There shall be a presumption favoring recall and resentencing of the defendant, which may only be overcome if a court finds the defendant currently poses an unreasonable risk of danger to public safety, as defined in subdivision (c) of Section 1170.18.

(c) A defendant is not entitled to file a petition seeking relief from the court under this section. If a defendant requests consideration for relief under this section, the court is not required to respond.

(d) After ruling on a referral authorized by this section, the court shall advise the defendant of their right to appeal and the necessary steps and time for taking an appeal.

(e) In recognition of the vital role that incarcerated persons have played protecting the people and property of California from wildfires, the Department of Corrections and Rehabilitation shall, by no later than July 1, 2027, promulgate regulations regarding the referral for resentencing of current participants in the California Conservation Camp program, former participants in the California Conservation Camp program who are still in custody, and incarcerated persons working at institutional firehouses that utilize the existing extraordinary conduct referral process and establish all of the following:

(1) Authorize the referral for resentencing of eligible incarcerated persons who have two or more years remaining to serve in state prison on their sentence.

(2) Prohibit the exclusion of individuals from resentencing consideration based solely on past or pending parole hearing dates.

(3) Prohibit the imposition of a minimum time served requirement as a condition for resentencing consideration.