

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1076 (Ting) – As Amended March 27, 2019

Policy Committee: Public Safety

Vote: 6 - 2

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

Requires the Department of Justice (DOJ), as of January 1, 2021, to review its criminal justice databases on a weekly basis, identify persons who are eligible for relief by having either their arrest records or conviction records withheld from disclosure, and grant relief to an eligible person without a petition or motion being filed on the person's behalf. Specifically, this bill:

- 1) Requires DOJ, on a weekly basis, to submit a notice electronically to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted.
- 2) Requires DOJ to include on the OpenJustice Web portal statistics regarding the total number of convictions granted relief and the total number of convictions prohibited from automatic relief, on an annual basis.
- 3) Requires the DOJ to grant relief, including dismissal of a conviction, to a person identified as eligible, without requiring a petition or motion by a party for that relief, and further requires such a person thereafter be released from all penalties and disabilities resulting from the offense of which the person has been convicted, except for the suspension or revocation of the person's driving privilege, as specified.

FISCAL EFFECT:

- 1) One-time costs (GF) to DOJ, likely in the millions of dollars, to review records and submit notices to superior courts, as required by this bill. Given the magnitude of the work involved and the limited timeline specified in this bill, it is likely that DOJ would require a significant temporary increase in staffing.
- 2) Costs (Trial Court Trust Fund/GF) between \$3.2 million dollars and \$9.8 million dollars annually for increased trial court workload assuming one million notifications over three years. Costs will depending on the number of convictions identified by the DOJ for relief.

Additional costs possibly in the tens of millions of dollars annually in lost revenue if courts determine eligible persons are relieved from all penalties and assessments, as required by this bill. Judicial Council estimates possible annual revenue loss to the courts of between \$23.3 million dollars and \$46.7 million dollars in penalties.

- 3) Costs (GF) likely in the hundreds of thousands of dollars annually for DOJ to compile information on convictions granted and denied relief and post them on the OpenJustice Web portal.

COMMENTS:

- 1) **Purpose.** According to the author:

This bill would open doors to those facing employment and housing barriers by automating the process of clearing an arrest or criminal record for eligible individuals.

- 2) **Background.** This bill requires DOJ to review convictions in the summary criminal history database for any crimes occurring before January 1, 2012 that may be eligible for expungement or removal from the database pursuant to sentencing changes in Propositions 47 and 64, as well as other statutory changes made since 2012. However, DOJ's summary criminal history database is often missing important disposition information, especially in regards to low-level arrests and probation violations. Furthermore, the summary criminal history database was first established in 1953. The records in that database are likely to number in the tens of millions, if not more. Analyzing each of those records for eligibility will be a monumental task and may produce some undesirable results. For example, DOJ will have no way of knowing whether the subject it is evaluating for relief is deceased, has moved out of the country or is otherwise uninterested in seeking arrest record or conviction record relief. The current system places the onus on the defendant to initiate the process to obtain relief, thereby ensuring that government resources are only expended on persons who actually stand to benefit.

- 3) **Support.** According to Californians for Safety and Justice:

Lack of access to employment and housing are primary factors driving recidivism, criminal records are serious barriers to successful reentry and come at a great cost to California's economy. Nationally, it has been estimated that the U.S. loses roughly \$65 billion per year in terms of gross domestic product due to employment losses among people with convictions.

- 4) **Opposition.** According to the California Law Enforcement Association of Records Supervisors, Inc.:

AB 1076 will unnecessarily put the burden on records management personnel, who are short staffed and without sufficient resources, to move arrest dispositions to an automated system, a very labor intensive and cost-prohibitive task. This proposed policy further creates a liability for law enforcement agencies that may inadvertently miss a defendant's record eligible for dismissal.

- 5) **Related Legislation:** AB 972 (Bonta) would establish a process for courts to automatically re-designate as a misdemeanor any felony conviction that is eligible to be reduced to a misdemeanor because of the passage of Proposition 47 (2014). AB 972 is pending in this committee.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081