

## ASSEMBLY THIRD READING

AB 1076 (Ting)

As Amended May 16, 2019

Majority vote

**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, with specified exceptions, and requires the DOJ to grant that relief to the eligible person without a petition or motion to be filed on the person's behalf.

**Major Provisions**

- 1) Requires the DOJ to review its statewide criminal justice databases and Automated Criminal History System on a weekly basis and identify persons who meet specified conditions and are therefore eligible for automatic arrest record relief.
- 2) States the conditions that must be met in order for a person to be eligible for relief.
- 3) Requires the DOJ to grant relief, including dismissal of a conviction, to a person identified as eligible, provided that there is sufficient information in DOJ's database to ascertain eligibility, 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.
- 4) 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, as well as the number of persons for which there is insufficient information to ascertain eligibility for relief, on an annual basis.

**COMMENTS:****According to the Author:**

"Everybody deserves a second chance. We must open doors for those facing housing and employment barriers and use available technology to clear arrest and criminal records for individuals already eligible for relief. There is a great cost to our economy and society when we shut out job-seeking workers looking for a better future. 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."

**Arguments in Support:**

According to the *Californians for Safety and Justice*, "Eight million California residents have criminal convictions on their records that hamper their ability to find work and housing, secure public benefits, or even get admitted to college. Millions more have old arrests on their record that never resulted in a conviction but remain as obstacles to employment. Nearly 90% of employers, 80% of landlords, and 60% of colleges screen applicants' criminal records.

"The *Survey of California Victims and Populations Affected by Mental Health, Substance Issues, and Convictions* found that 76 percent of individuals with a criminal conviction report instability in finding a job or housing, obtaining a license, paying for fines or fees, and having health issues. A National Institute of Justice study found that having a criminal record reduced the chance of getting a job or call back by 50%.

"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."

#### **Arguments in Opposition:**

According to the *California Law Enforcement Association of Records Supervisors, Inc.*: "Under current law, a person already has the ability to petition the courts to get their criminal records expunged. Once the judge grants the expungement, a person can lawfully answer they have never been convicted of the crime. This process allows for a successful reentry into the community and the ability to obtain housing and employment. Furthermore, existing law also allows for an indigent defendant to get the necessary fees waived for costs associated with the expungement process.

"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."

#### **FISCAL COMMENTS:**

According to the Assembly Appropriations Committee:

- 1) One-time costs (General Fund (GF)) to DOJ, likely in the low 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 depend on the number of convictions identified by the DOJ for relief.

#### **VOTES:**

##### **ASM PUBLIC SAFETY: 6-2-0**

**YES:** Jones-Sawyer, Bauer-Kahan, Kamlager-Dove, Quirk, Santiago, Wicks

**NO:** Lackey, Diep

##### **ASM APPROPRIATIONS: 12-5-1**

**YES:** Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, Quirk, Robert Rivas

**NO:** Bigelow, Brough, Diep, Fong, Obernolte

**ABS, ABST OR NV:** Maienschein

**UPDATED:**

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