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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 567                      **Hearing Date:** June 20, 2023  
**Author:** Ting  
**Version:** March 29, 2023  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Criminal records: relief*

## HISTORY

**Source:** Californians for Safety and Justice

**Prior Legislation:** SB 731 (Durazo), Chapter 814, Statutes 2022  
AB 1038 (Ting) 2021-2022 not heard Senate Public Safety  
SB 118 (Budget), Chapter 29, Stats. 2020  
AB 88 ( Budget)2 019-2020 failed Senate inactive  
AB 1076 (Ting), Chapter 578, Stats of 2019

**Support:** California Public Defenders Association

**Opposition:** None known

**Assembly Floor Vote:** 76 - 0

## PURPOSE

***The purpose of this bill is to extend the automatic conviction record relief to misdemeanor convictions where the sentence has been successfully completed following a revocation of probation.***

*Existing law* requires the DOJ, as of July 1, 2023, and subject to an appropriation in the annual Budget Act, on a monthly basis, to review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, identify persons with convictions that meet specified criteria and are eligible for automatic conviction record relief. (Penal Code § 1203.425 (a)(1)(A).)

*Existing law* states that a person is eligible for automatic conviction relief if they meet all of the following conditions:

- a) The person is not required to register pursuant to the Sex Offender Registration Act;
- b) The person does not have an active record for local, state, or federal supervision in the Supervised Release File;
- c) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for any offense and there is no indication of any pending criminal charges; and,

- d) The conviction occurred on or after January 1, 1973, and meets either of the following criteria:
- i. The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation; or,
  - ii. The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment. (Penal Code § 1203.425 (a)(1)(B)(iv)(I)); or
- e) The conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based upon the disposition date and the sentence specified in the DOJ's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease community supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This does not apply to a conviction of a serious or a violent felony, or a felony offense requiring sex offender registration. (Penal Code § 1203.425 (a)(1)(B)(iv)(II).)

*Existing law* requires the DOJ to grant relief, including dismissal of a conviction, to a person who is eligible, without requiring a petition or motion by a party for that relief if the relevant information is present in the DOJ's electronic records. (Penal Code § 1203.425 (a)(2)(A).)

*Existing law* requires the DOJ, as of July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted. (Penal Code § 1203.425 (a)(3)(A).)

*Existing law* prohibits, as of January 1, 2023, the court from disclosing information concerning a conviction granted relief, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency. (Penal Code § 1203.425 (a)(3)(A).)

*Existing law* allows the prosecuting attorney or probation department to, no later than 90 calendar days before the date of a person's eligibility for relief, to file a petition to prohibit the DOJ from granting automatic relief, based on a showing that granting the relief would pose a substantial threat to public safety. (Penal Code § 1203.425 (b)(1).)

*Existing law* requires the court to notify the defendant of the petition and conduct a hearing within 45 days. (Penal Code § 1203.425 (b)(2).)

*Existing law* provides that if the court grants the petition, the court must furnish a disposition report to DOJ. (Penal Code § 1203.425 (b)(6).)

*Existing law* states that if relief is denied, but subsequently granted under a different provision, as specified, the court must submit a disposition report to the DOJ. (Penal Code § 1203.425 (b)(7).)

*This bill* extends automatic conviction record relief to misdemeanor convictions where the sentence has been successfully completed following a revocation of probation.

*This bill* provides that upon request from the subject of the record, the Department of Justice (DOJ) shall provide confirmation that relief was granted.

## COMMENTS

### 1. Need for This Bill

According to the author:

AB 1076 (Ting) in 2019 opened doors for people with records facing housing and employment barriers by automating eligible arrest and conviction relief for those who met specified requirements. AB 567 expands automated relief to infractions and misdemeanors, filling in the gap under current law that already permits it for felonies. The bill also allows an individual to request confirmation from the Department of Justice that relief is granted. Everybody deserves a second chance, and it's our responsibility to make sure that paths we set forward are clear, equitable, and accessible.

### 2. Automatic Conviction Record Relief

In 2019, the Legislature passed AB 1076 (Ting), Chapter 578, Statutes of 2019. AB 1076 which, in part, established a procedure in which persons could have certain convictions dismissed and have such information withheld from disclosure, all without having to file a petition with the court. (Pen. Code, § 1203.425.) The purpose of AB 1076 was to remove barriers to housing and employment for convicted and arrested individuals in order to foster their successful reintegration into the community.

AB 200 (Budget Committee), Chapter 58, Statutes of 2022, delayed the implementation date of AB 1076 related to prohibiting dissemination of criminal records for which relief was granted to January 1, 2023. SB 731 (Durazo), Chapter 814, Statutes of 2022, expanded automatic arrest record and conviction relief to additional felony offenses, and delayed the effective date to July 1, 2023.

Under existing law effective July 1, 2023, automatic relief applies to a defendant who was convicted of a felony on or after January 1, 2005, and who has successfully completed their sentence (including any term of probation) after having had their probation revoked. SB 763 (Durazo), of the 2023-2024 Legislative Session, would apply this relief to convictions occurring on or after January 1, 1973.

Under existing law effective July 1, 2023, automatic conviction record relief does not apply to a defendant who has a misdemeanor conviction, and who has successfully completed their sentence (including any term of probation) after having had their probation revoked.

This bill would expand automatic record relief to include misdemeanor convictions occurring on or after January 1, 1973, in which the person, although having had probation revoked, thereafter successfully completes their sentence and any probation.

This bill would also require the DOJ to provide confirmation that relief was granted if the subject of the criminal records requests it.

### 3. Argument in Support

Californians for Safety and Justice supports this bill stating:

Studies show that lack of access to employment and housing are primary factors that drive individuals to reoffend. As a result, barriers to criminal record relief reduce the likelihood of successful reentry and harm public safety. They also perpetuate the long history of disproportionate impact of the justice system on socioeconomically disadvantaged communities, and communities of color in particular.

In California, eight million residents have criminal convictions on their records hampering 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. Criminal records are serious barriers to successful reentry and come at a cost of \$20.8 billion annually to California's economy. Nationally, it has been estimated that the U.S. loses roughly \$372.3 billion per year in terms of gross domestic product due to employment losses among people living with convictions.

Current law allows individuals to clear arrests that did not result in a conviction, and to clear convictions that are eligible for dismissal by petitioning the court. This imposes a burden on affected individuals to be made aware of their eligibility and retain an attorney to proactively file the necessary petition. Additionally, under that current petition-based record clearance model, each record costs the system \$3,757, whereas an automated system costs 4 cents per record.

In 2019, Governor Newsom signed AB 1076 (Ting), which requires the California Department of Justice v(DOJ) to automate arrest and conviction relief for specified records dating back to January 1, 1973. To ensure that all impacted Californians benefit from the relief, AB 567 would clarify the author's original intent in AB 1076. For these reasons, we are proud to sponsor AB 567 and respectfully request your aye vote.

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