
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1050 **Hearing Date:** April 17, 2018
Author: Lara
Version: March 21, 2018
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Exonerated Inmates: Transitional Services*

HISTORY

Source: Exonerated Nation

Prior Legislation: SB 336 (Anderson), Ch. 728, Stats. 2017
SB 1134 (Leno), Ch. 785, Stats. 2016
SB 635 (Nielsen), Ch. 422, Stats. 2015
AB 672 (Jones-Sawyer), Ch. 403, Stats. 2015
SB 1134 (Leno), Ch. 785, Stats. 2016
SB 618 (Leno), Ch. 800, Stats. 2013

Support: California Attorneys for Criminal Justice; California Catholic Conference;
California Public Defenders Association; Ella Baker Center Human Rights

Opposition: None known

PURPOSE

The purpose of this bill is to expand transitional services for exonerated persons.

Existing law establishes procedures for the filing and hearing of a petition for a writ of habeas corpus, which allows a person to challenge his or her incarceration or related restraint as unlawful. (Pen. Code, §§ 1474-1508.)

Existing law defines “exonerated” to mean the person has been convicted and subsequently one of the following occurred:

- A writ of habeas corpus concerning the person was granted on the basis that the evidence unerringly points to innocence, or the person’s conviction was reversed on appeal on the basis of insufficient evidence;
- A writ of habeas corpus concerning the person was granted, either resulting in dismissal of the criminal charges for which he or she was incarcerated or following a determination that the person is entitled to release on his or her own recognizance, or to bail, pending retrial or pending appeal; or,

- The person was given an absolute pardon by the Governor on the basis that the person was innocent. (Pen. Code 3007.05, subd. (d).)

Existing law requires the Department of Corrections and Rehabilitation (CDCR) to assist an exonerated person with transitional services, including housing assistance, job training, and mental health services, as applicable. (Pen. Code, § 3007.05, subd. (c).)

Existing law provides that the extent of the transitional services shall be determined by CDCR and shall be provided for a period of not less than six months and not more than one year from the date of release. (*Id.*)

This bill amends existing law to specify that CDCR shall provide the following to exonerated persons:

- Transitional services, including housing assistance, job training, and mental health services, as applicable. The services shall be offered within the first week of an individual's exonerated person and again within the first 30 days of exonerated person. Services shall be provided for a period of not less than six months and not more than one year from the date of release unless the exonerated person qualifies for services beyond one year under existing law;
- Enrollment in the Medi-Cal program for the individual and any qualified family members;
- Enrollment in the CalFresh program, and extends, to the extent permitted by federal law, notwithstanding any other law, eligibility for an exonerated person without employment to one year; and,
- Referral to the Employment Development Department and applicable regional planning units for workforce services.

Existing law provides that any person who, having been convicted of any crime against the state amounting to a felony and imprisoned in the state prison for that conviction, is granted a pardon by the Governor for the reason that the crime with which he or she was charged was either not committed at all or, if committed, was not committed by him or her, or who, being innocent of the crime with which he or she was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he or she was imprisoned, may, as specified, present a claim against the state to the board for the pecuniary injury sustained by him or her through the erroneous conviction and imprisonment. (Pen. Code, § 4900.)

Existing law sets the rate of compensation at \$140 per day of incarceration served subsequent to the claimant's conviction, and specifies that this appropriation shall not be considered gross income for state tax purposes. (Pen. Code, § 4904.)

Existing law, states that, in addition to any other payment to which he is entitled by law, each prisoner upon his release shall be paid the sum of two hundred dollars, from such appropriations that may be made available for this purpose. (Pen. Code, § 2713.1.)

This bill requires, in addition to any other payment authorized by law, each person who is exonerated be paid \$1000 upon his or her release, from funds to be made available upon appropriation by the Legislature for this purpose.

This bill requires CDCR to notify the Department of Justice (DOJ) that a person meets the definition of “exonerated” as defined no later than the date that CDCR releases the person from custody.

This bill states that upon receiving such notice, DOJ shall immediately update the person’s state summary criminal history information with a notation that the person meets the definition of “exonerated” as defined.

COMMENTS

1. Need for This Bill

According to the author of this bill:

There have been a total of 192 exonerations in California since the year 1989, with the vast majority of these wrongfully convicted individuals serving time in state prison before their convictions were thrown out, collectively losing 1,574 years of their freedom. Exonerated people, due to the unique nature of their imprisonment and release, need and deserve comprehensive, tailored services and benefits.

Current law has established procedures and services for people upon their release from prison by parole or sentence completion in order to assist them as they transition back into society, including job training, employment, healthcare, and stable housing. However, exonerees do not receive the same level of support, including gate money and enrollment in Medi-Cal and CalFresh, making them extremely vulnerable to falling into poverty and homelessness upon their release.

The process by which exonerees are released is often abrupt and unexpected. Whereas people serving determinate sentences and parolees know the exact date of their release and are given resources weeks in advance, exonerated people are usually released with very little prior notice. The court can make a determination of innocence and order the California Department of Corrections and Rehabilitation to release an exonerated person within the time span of a day. The Department has not established a process to enroll exonerees in the same level of services as parolees.

Exonerees also do not currently receive any gate money upon their release. The purpose of gate money is to help individuals immediately upon their release, whether it is to purchase a meal, a bus ticket home, or cover a couple nights in a hotel until they can get connected with friends, family, or support services. In California, people released from prison receive \$200 to help them get where they need to go. Exonerees, due to the fact that they are often released with very little notice and do not have time to plan, often face even greater hardship in finding a place to stay upon their release.

When applying for a job, exonerated people face further barriers when their records show a crime they did not commit. It can often be months or even years before an exonerated person has their records updated to reflect their wrongful conviction and release from prison.

2. Transitional Services for Exonerees

A 2008 report by the California Commission on the Fair Administration of Justice addresses some of the obstacles faced by persons who have established their innocence after conviction of a crime in gaining access to post-conviction relief, achieving reintegration into society, and gaining compensation for their wrongful convictions. As to reintegration in particular, the report states:

Ironically, even the limited resources made available to convicted felons who have served their sentences and are released from prison are not available to those whose convictions have been set aside. Parolees are released to the community in which they were arrested or convicted; services such as counseling and assistance in locating housing or jobs are limited to those who remain under parole supervision. But those who are being released because their conviction is set aside, including those who have been found innocent, receive none of these services. Those who have been released back into the community after successfully challenging their convictions, whether innocent or not, face the same obstacles encountered by parolees, and more. Many are afflicted with post-traumatic stress disorder, or other psychological damage resulting from their wrongful incarceration over a long period of time. Of the States with compensation laws, only three – Massachusetts, Louisiana and Vermont – provide for the costs of medical and psychological care. The New York Times recently gathered information on 137 of the 206 imprisoned individuals who have been found innocent by DNA testing from 1989 through 2007. The reporters also researched the compensation claims of all 206. They found that at least 79 of these persons (40%) received no compensation at all. More than half of those who did receive compensation waited two years or longer after exoneration for the first payment. Few received any government services after their release. They typically left prison with less help – prerelease counseling, job training, substance-abuse treatment, housing assistance and other services – than some states offer to paroled prisoners. Most found that authorities were slow to wipe the convictions from their records, if they did so at all. Even those who were well educated and fully employed at the time of their wrongful conviction had difficulty finding work after their release. Roberts & Stanton, *A Long Road Back After Exoneration, and Justice is Slow to Make Amends*, New York Times, Nov. 25, 2007; Santos & Roberts, *Putting a Price on a Wrongful Conviction*, New York Times, Dec. 2, 2007.

The Commission recommends that services to assist with reintegration into society be available to all those released from prison after their judgment of conviction has been reversed, vacated or set aside. This would include assistance in locating housing, a cash allowance, clothing, and employment counseling.

(*Report and Recommendations on Remedies*," pp. 6-8, <http://www.ccfaj.org/documents/reports/incompetence/official/REPORT%20AND%20RECOMMENDATIONS%20ON%20REMEDIES.pdf> .)

Although persons who have been wrongfully convicted may file an application with the Victims Compensation Board for compensation (\$140 per day of incarceration), that process can take months or years and can ultimately be denied. In the meantime, a person who has been wrongfully convicted and released after spending many years in prison faces the same hurdles to reentering society as anyone else who has been incarcerated in prison, yet they are not provided with the same type of assistance that is given to convicted persons.

In 2015, the Legislature passed "Obie's Law" which required CDCR to provide transitional services to a wrongfully convicted person, including housing assistance, job training, and mental health services, the extent of which was to be determined by CDCR. (AB 672 (Jones-Sawyer), Ch. 403, Stats. 2015.) The law was inspired by Obie Anthony who was wrongfully convicted and spent 17 years in prison before he was exonerated and released. Prior to SB 672, there were no transitional or reentry services provided to exonerees. This bill expands the transitional services provided to exonerees established by SB 672 and requires the exoneree to be provided \$1000 upon his or her release. Under existing law, exonerees do not receive any money upon release from prison, whereas most other inmates receive \$200 upon release. The bill also requires CDCR to notify DOJ of the person's status no later than the person's date of release and requires DOJ to immediately update the person's state summary criminal history information with a notation that the person was "exonerated." According to information provided by the author, currently an exonerated person's summary criminal history information may not be updated to reflect that they were exonerated for months or even years.

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