



AB 1115: Reducing Recidivism Through Expungement Relief

Summary:

AB 1115 authorizes a court, in its discretion, to grant expungement relief for a petitioner previously convicted of an offense included in AB 109 (2011), public safety Realignment.

Background:

In 2011, Governor Jerry Brown signed Assembly Bill 109, also referred to as “Realignment.” Under Realignment, offenders are authorized to serve their sentences in county jails and/or under local community supervision rather than state prison if they meet the following criteria: 1) they were sentenced for certain non-serious, non-violent, non-sexual crimes; 2) they have no prior serious or violent criminal convictions; and 3) they are not registered sex offenders. Realignment has been the cornerstone of California’s solution to reducing state costs, high rates of recidivism, and most notably, the extreme overcrowding within our prison system.

Prior to the passage of AB 109, more than 60,000 people with a felony record cycled in and out of our state prisons annually, with a 90-day average length of stay for violations of parole. Within the first two years following Realignment, the population of those with a felony on their record and who violated their parole dropped from 13,285 to 25, as most parole violators now serve their time in county jail. While this placed burdens on local jurisdictions, public safety has not been compromised, nor has there been a disruption in the permanent funding

allocated to counties for the ongoing implementation of AB 109.

In fact, one of the impacts we have seen following the inception of AB 109 is that recidivism rates have continued to decline. Since 2011, recidivism dropped from 67 percent to 44 percent, inclusive of those who have been re-incarcerated locally as a result of Realignment. Furthermore, both the severe overcrowding in our prisons and the costs associated with high rates of incarceration have also significantly diminished.

Need for legislation:

Where there are barriers to housing, employment, education and other opportunities for economic stability, the likelihood of recidivism increases. It is therefore necessary to create pathways for individuals to expunge old criminal convictions after all terms of punishment have been met.

In 2013, AB 651 was signed into law authorizing a court, in its discretion and in the interests of justice, to grant expungement relief for individuals convicted of a Realignment offense. AB 651 established a process of expungement for these individuals after successful completion of supervision, full payment of restitution, and the individual has demonstrated a commitment to reentry.

Although AB 651 has helped ease some of the challenges and barriers to housing, employment, education and overall reintegration, there are still

those who, prior to Realignment, are ineligible to clean-up their records.

AB 1115 will address this concern by allowing a court to determine whether an individual convicted of a Realignment offense, prior to 2011 and who would have fallen under Realignment, should be granted expungement relief. Ultimately, this bill will help further reduce recidivism, building upon statewide efforts to assist those who have served their time and proven their willingness to be productive, contributing, law-abiding members of society.

This bill:

Specifically, AB 1115 will authorize a court, in its discretion and in the interests of justice, to grant expungement relief for a petitioner previously convicted of an offense enumerated in Penal Code Section 1170 (h), if specified conditions are satisfied.

- Applies to petitioners seeking expungement relief for a prior conviction for a non-serious, non-violent, or non-sexual offense for which he or she was sentenced prior to enactment of Realignment
- Provides that the court, may grant the expungement relief only after the lapse of one year following the petitioner's completion of the sentence, provided that the petitioner is not under local or state supervision or is not serving a sentence for, on probation for, or charged with the commission of any offense.
- Provides that in any subsequent prosecution of the petitioner for any offense, a conviction dismissed pursuant to the relief provided by this bill shall have the same effect as if it had not been dismissed.
- Provides that a conviction dismissed by the relief provided by this bill does not relieve the petitioner of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for any state or local license, or for contracting with the California State Lottery Commission.
- Provides that the expungement relief of a conviction does not permit a person to own,

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possess, or have in his or her custody or control any firearm or prevent his or her conviction for such ownership or possession.

- Provides that the expungement relief does not permit a person prohibited from holding public office as a result of the dismissed conviction to hold public office.
- Prevents the court from granting the expungement relief unless the prosecuting attorney has been given 15 days' notice of the petition.

Support:

- Californians for Safety and Justice (Sponsor)

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