

AB 2438

Expediting the Records Clearing Process

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

Individuals with criminal records face barriers in gaining employment, making it more likely to reoffend. This bill would prevent reoffending by expediting the process of clearing a record after a defendant's successful completion of probation.

BACKGROUND

Each year, California spends \$11 billion on prisons and there are an estimated 8 million individuals have a criminal conviction record. Yet with so many Californians possessing a criminal record, there are many barriers in place that restrict employment and housing for individuals with a record.

The *Survey of California Victims and Populations Affected by Mental Health, Substance Issues, and Convictions* found that 76% 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 offer or callback by 50%. Furthermore, there are more than 4,800 legal restrictions for individuals with convictions.

A survey by Californians for Safety and Justice found that 60% of Californians oppose laws that restrict employment and housing options for individuals with felony convictions after they have completed their sentence, and 70% of Californians support clearing the records of those who remain crime-free for seven years.

The *Journal of Criminal Law and Criminology* found that individuals who are able to clear their records experience a 10% increase in employment rate, and thus less likely to live in poverty, develop health issues, or reoffend.

In order for Californians to remove these barriers, the state has a process that allows defendants to clear their criminal record. However, the process in California is not true expungement or records

sealing; the record still exists, can be used as priors by District Attorneys, and nothing happens to the record of arrest. Rather, there is a note on the court record and Record of Arrests and Prosecutions (RAP) sheet that says "expunged" and individuals can lawfully tell private employers that they do not have a conviction. However, licensing agencies and public employers can still see records because they get background check information from the Department of Justice.

Under current law, judges must clear a record when the defendant requests it and pays for a fee. Individuals who have the capacity to obtain legal counsel can petition the court to terminate probation and concurrently make a motion to clear their record. However, many individuals do not have the capacity to obtain legal counsel and cannot afford to pay the fee, leaving this population behind.

The Governor last year signed AB 1115 (Jones-Sawyer), which allows defendants in state prison convicted prior to realignment to apply to clear their record.

THIS BILL

AB 2438 would expedite the records clearing process for those who have successfully completed their probation for non-serious and nonviolent offenses by requiring the court to clear the record without the defendant petitioning for it. The bill would also remove the application fee required by the court. These records will still be available to law enforcement.

SPONSOR

Californians for Safety and Justice

STAFF CONTACT

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