

SENATE THIRD READING
SB 1260 (Durazo)
As Amended August 25, 2022
Majority vote

SUMMARY

Specifies, contingent upon the passage of SB 731 (Durazo) of the current legislative session, that discretionary and automatic conviction record relief do not make a person eligible to provide or receive payment for providing in-home supportive services or "waiver personal care services" if they are otherwise ineligible under state or federal law or regulation.

Major Provisions

- 1) Specifies, contingent upon the passage of SB 731 (Durazo), that discretionary and automatic conviction record relief does not make a person eligible to provide or receive payment for providing in-home supportive services or "waiver personal care services" if they are otherwise ineligible under state or federal law or regulation.
- 2) Requires a record relief order to state, and the defendant to be advised, that relief does not relieve the defendant of the obligation to disclose the conviction in response to any direct question in an application for enrollment as a provider of in-home supportive services and "waiver of personal care services," as specified.
- 3) Makes additional changes to avoid chaptering out recently enacted law – AB 200 (Public Safety Budget Trailer Bill), Chapter 58, Statutes of 2022 – if SB 731 (Durazo) passes.
- 4) Double joints this bill with SB 1106 (Wiener) of the current legislative session to avoid chaptering out issues.

COMMENTS

Background

Existing law authorizes a court to allow a defendant sentenced to county jail for a realigned felony to withdraw their plea of guilty or plea of nolo contendere and enter a plea of not guilty, if they have met specified criteria. If discretionary relief is granted, the court dismisses the accusation or information against the defendant and releases them from all penalties and disabilities resulting from the conviction, except as specified. (Penal Code, Section 1202.41.)

In 2019, the Legislature passed AB 1076 (Ting), Chapter 578, Statutes of 2019. AB 1076 established a procedure in which persons who had been arrested or convicted under certain conditions could have certain convictions dismissed, arrest records sealed, and have such information be withheld from disclosure, all without having to file a petition with the court. (Penal Code Section 1203.425.) The purpose of AB 1076 was to remove barriers to housing and employment for recently 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 and included a change to allow for the dissemination of convictions for which relief was granted to the Commission on Teacher Credentialing.

SB 731 (Durazo) would expand discretionary expungement relief to include felonies where the defendant was sentenced to state prison, rather than just realigned felonies, as specified. It would expand automatic arrest record and conviction relief to additional felony offenses, as specified. Notwithstanding the allowance AB 200 created for dissemination of criminal records to the Commission on Teacher Credentialing, SB 731 would prohibit records for specified drug offenses that are more than five years old and for which relief was granted from being disseminated or used to deny a credential. Record relief would not otherwise affect the authority to receive, or take adverse action based on, criminal history information for purposes of teacher credentialing or employment in public education, as specified.

To avoid any conflict with federal law, this bill would specify that relief granted does not make a person eligible to provide, or receive payment for providing, in-home services or "waiver personal care services" if they are otherwise ineligible under federal law or regulation. This bill would make additional changes to avoid chaptering out recently enacted law under AB 200 and to avoid chaptering out issues with AB 1106 (Wiener) of the current legislative session.

According to the Author

"SB 1260 will resolve chaptering issues with the public safety budget trailer bill. This bill also contains double jointing language to address a conflict in Penal Code Section 1203.41. Finally, this bill protects federal funding for the Department of Healthcare Services waiver personal care services program."

Arguments in Support

None submitted.

Arguments in Opposition

None submitted.

FISCAL COMMENTS

Unknown.

VOTES**SENATE FLOOR: 27-9-4**

YES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Archuleta, Caballero, Hertzberg, Hurtado

ASM LABOR AND EMPLOYMENT: 5-2-0

YES: Kalra, Haney, Jones-Sawyer, Reyes, Ward

NO: Mathis, Seyarto

ASM JUDICIARY: 7-3-0

YES: Stone, Bloom, Haney, Kalra, Maienschein, Reyes, Robert Rivas

NO: Cunningham, Davies, Kiley

ASSEMBLY FLOOR: 52-18-10

YES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cooley, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Rendon

NO: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

ABS, ABST OR NV: Alvarez, Arambula, Cervantes, Choi, Cooper, Gray, Irwin, Mayes, Petrie Norris, Wood

UPDATED

VERSION: August 25, 2022

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