

# California SB 731

## Criminal Records Relief



### First let us look at Section 851.93:

The Department of Justice shall conduct monthly reviews of their statewide justice database to identify persons that may have eligible records of arrest relief.

If a person had an arrest after January 1, 1973, there are criteria related to the consideration under the audit for relief pursuant to subsections (A)(B)(C) and (D).

These criteria of “arrest” include:

- A person was arrested for misdemeanor offense and the charge was dismissed.
- A person who had an arrest for misdemeanor offense, and there is no indication that it continued to criminal proceedings and at least 3 years have passed since the date of arrest, or no conviction occurred, or the person arrested was acquitted of any charges that pertained to the arrest.
- A person who had an arrest for an offense that can be punishable by imprisonment for 8 years or greater, and there is no indication that criminal proceedings had been initiated, at least 6 years has passed from arrest date and no conviction has occurred, or the person was acquitted of any charges that pertained to the arrest.
- A person completed a prefile diversion program, a drug diversion program administered by a superior court, or a deferred entry of judgement program. A person completed a pretrial diversion program or any diversion program under the agreement with the court.

The person would not need to petition the court, this is handled by the Department of Justice in a monthly audit and is based on criteria within this bill.

# California SB 731

## Criminal Records Relief



The state summary criminal history information shall include a note stating “arrest relief granted” with the date the department granted relief.

Section 851.93 when provided as “relief granted” does not relieve a person from disclosing the criminal conviction to application for employment as a peace officer, public office, or CA State Lottery Commission. Relief granted does not affect the authority to receive or take adverse action based on criminal history information as it relates to other statutory or regulatory provisions. A prosecutor or probation department may provide proof that granting relief would pose a substantial threat to the public safety and thus a process of reevaluation would be considered by the court.

Each month, the department shall electronically notify the superior court which has jurisdiction over the case regarding the audit and decision to which relief was granted under 851.93. This section shall operate commencing July 1, 2023. Thereby, the “arrest relief granted” shall be noted in the jurisdiction.

### **Second let us look at Penal Code section 1203.45:**

This is also a monthly audit to be conducted by the Department of Justice to review records on or after January 1, 1973.

For a person to be eligible for the DOJ to consider relief of their conviction in this section the defendant shall meet all the following conditions:

- The defendant is not required to register pursuant to the Sex Offender Registration Act.
- The defendant does not have an active record for local, state, or federal supervision in the Supervised Release File.



# California SB 731

## Criminal Records Relief



During the audit the information available in the department's record shall be reviewed, including disposition dates and sentencing terms, and does not appear that the defendant is currently serving a sentence for an offense and there is no indication of pending criminal charges.

The audit period shall include when the conviction occurred on or after January 1, 1973, and meets either of the following criteria:

- 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.
- 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.
- 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 department's records, appears to have completed all terms of incarceration, probation, mandatory supervision, post release 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.

Important: the Department of Justice in their audit, shall not consider serious felony convictions in this section for record relief.



# California SB 731

## Criminal Records Relief



The person would not need to petition the court, this is handled by the Department of Justice in a monthly audit and is based on criteria within this bill. The department shall grant relief, including dismissal of a conviction.

The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating, "relief granted," listing the date that the department granted relief and this section PC 1203.425.

Each month, the department shall electronically notify the superior court which has jurisdiction over the case regarding the audit and decision to which relief was granted under PC 1203.425. This section shall operate commencing July 1, 2023.

