



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS
770 L Street, Suite 1240 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

CORY T. JASPERSON
Director, Office of Governmental Affairs

May 9, 2013

Hon. Steven C. Bradford
Member of the Assembly
State Capitol, Room 5136
Sacramento, California 95814

Subject: AB 651 (Bradford), as introduced - Oppose

Dear Assembly Member Bradford:

The Judicial Council regrettably opposes AB 651, which authorizes courts, in their discretion and in the interest of justice, to grant dismissals (commonly referred to as “expungements”) for eligible petitioners who were convicted of a felony and sentenced to jail upon a petition for a change of plea or setting aside of a verdict.

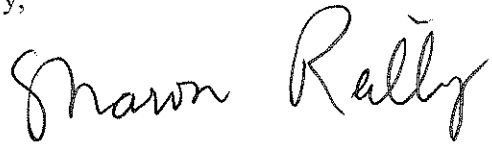
The Judicial Council opposes AB 651 because it interferes with the discretion of courts to provide incentives to individuals convicted of crimes to opt for probation or split-sentences over jail time. Judges and prosecutors often rely on the ability of a court to “expunge” a conviction after probation is completed as an incentive for individuals convicted of crimes to successfully complete probation. Under existing law, individuals who serve straight prison or jail sentences may not have their convictions expunged. AB 651 changes that by permitting a judge to expunge the record of an individual convicted of a felony who is sentenced to county jail or a split sentence that includes jail time and mandatory supervision. Typically, probation terms and split sentences last for longer periods of time than straight jail sentences. The council is concerned that AB 651 will make it difficult to persuade individuals convicted of felonies that being placed on probation or having a split sentence, which will include a period of mandatory supervision, is preferable to serving a straight jail sentence, which will be for a shorter period of time. In other words, if these individuals can still have their convictions expunged after serving a shorter jail

Hon. Steven C. Bradford
May 9, 2013
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sentence, they will not have the same incentive to opt for the longer lasting probation or split sentence terms.

For these reasons, the Judicial Council opposes AB 651.

Sincerely,

A handwritten signature in black ink that reads "Sharon Reilly". The signature is written in a cursive, flowing style.

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Ms. Kimberly A. Horiuchi, Advocate, ACLU
Ms. Tirien Steinbach, Executive Director, East Bay Community Law Center
Ms. Kimberly Thomas Rapp, Esq., Executive Director, Lawyers' Community for Civil Rights of
the San Francisco Bay Area
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor



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June 18, 2013

Hon. Kevin de León, Chair
Senate Appropriations Committee
State Capitol, Room 5108
Sacramento, California 95814

Subject: AB 651 (Bradford), as introduced – Opposition and Fiscal Impact Statement
Hearing: Senate Appropriations Committee – June 24, 2013

Dear Senator de León:

The Judicial Council regrettably opposes AB 651, which authorizes courts, in their discretion and in the interest of justice, to grant dismissals (commonly referred to as “expungements”) for eligible petitioners who were convicted of a felony and sentenced to jail upon a petition for a change of plea or setting aside of a verdict.

The Judicial Council opposes AB 651 because it interferes with the discretion of courts to provide incentives to individuals convicted of crimes to opt for probation or split-sentences over jail time. Judges and prosecutors often rely on the ability of a court to “expunge” a conviction after probation is completed as an incentive for individuals convicted of crimes to successfully complete probation. Under existing law, individuals who serve straight prison or jail sentences may not have their convictions expunged. AB 651 changes that by permitting a judge to expunge the record of an individual convicted of a felony who is sentenced to county jail or a split sentence that includes jail time and mandatory supervision. Typically, probation terms and split sentences last for longer periods of time than straight jail sentences. The council is concerned that AB 651 will make it difficult to persuade individuals convicted of felonies that being placed on probation or having a split sentence, which will include a period of mandatory supervision, is

preferable to serving a straight jail sentence, which will be for a shorter period of time. In other words, if these individuals can still have their convictions expunged after serving a shorter jail sentence, they will not have the same incentive to opt for the longer lasting probation or split sentence terms. For these reasons, the Judicial Council opposes AB 651.

Fiscal Impact

Over 15,000 felons currently are confined in the county jails pursuant to Penal Code 1170(h). The Judicial Council cannot speculate as to how many of these defendants might qualify for a section 1203.41 hearing in any given year. Nevertheless, AB 651 expands the pool of defendants eligible to petition for relief under Penal Code 1203.41 by allowing felons not previously eligible to file such petitions. Data collected by the Judicial Branch Statistical Information Systems (JBSIS) in 2011 show that approximately 2,500 filings similar to 1203.41 petitions, including, for example, Petitions for Certificates of Rehabilitation and Pardon, are filed per year, representing 1% of all felony filings. Courts indicate that such hearings require approximately 45 minutes of court time. Taking into account the time of the judicial officer and courtroom staff, the average cost of a day in court is approximately \$4,000. At that rate, a 45-minute hearing costs \$375. If 1,250 new petitions are filed (50% of the 1% of felony filings per JBSIS data), the costs to the judicial branch would be \$468,750 (1,250 hearings x \$375 hour per hearing, based on an estimated eight hours of available courtroom time per day). If 10% of 1170(h) felons petition for relief under the authority created by AB 651, the costs to the Judicial Branch would be \$562,500 (1,500 hearings x \$375 hour per hearing).

To address these costs, AB 651 provides that a defendant may “be required to reimburse the court for actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150)...” As a result, regardless of the number of eligible defendants who petition for relief under the authority created by AB 651, each petition would cost the court at least \$225 in excess of what a court would be authorized to charge. Using the numbers above, the cost to the courts, if 1,250 petitions are filed per year, would be \$281,250 assuming the full \$150 reimbursement is assessed and collected. The loss to the branch climbs as the number of petitions increases. The loss to the courts also grows from \$225 per petition filed to \$375 for every reduced fee and fee waiver granted by the court for qualifying defendants. And finally, the total universe of individuals authorized to file petitions under this bill will increase as more individuals receive qualifying sentences under Penal code section 1170(h), thereby increasing costs to the courts, possibly to a significant degree, from \$225 to \$375 per petition.

Sincerely,



Sharon Reilly
Senior Attorney

Hon. Kevin de León

June 18, 2013

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cc: Members, Senate Appropriations Committee

Hon. Steve Bradford, Member of the Assembly

Ms. Jolie Onodera, Consultant, Senate Appropriations Committee

Mr. Matt Osterli, Fiscal Consultant, Senate Republican Fiscal Office

Mr. Jerome McGuire, Counsel, Senate Public Safety Committee

Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Madelynn McClain, Budget Analyst, Department of Finance



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September 18, 2013

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 651 (Bradford) – Request for Veto

Dear Governor Brown:

The Judicial Council regrettably opposes AB 651, which authorizes courts, in their discretion and in the interest of justice, to grant dismissals (commonly referred to as “expungements”) for eligible petitioners who were convicted of a felony and sentenced to jail upon a petition for a change of plea or setting aside of a verdict.

The Judicial Council opposes AB 651 because it interferes with the discretion of courts to provide incentives to individuals convicted of crimes to opt for probation or split-sentences over jail time. Judges and prosecutors often rely on the ability of a court to “expunge” a conviction after probation is completed as an incentive for individuals convicted of crimes to successfully complete probation. Under existing law, individuals who serve straight prison or jail sentences may not have their convictions expunged. AB 651 changes that by permitting a judge to expunge the record of an individual convicted of a felony who is sentenced to county jail or a split sentence that includes jail time and mandatory supervision. Typically, probation terms and split sentences last for longer periods of time than straight jail sentences. The council is concerned that AB 651 will make it difficult to persuade individuals convicted of felonies that being placed on probation or having a split sentence, which will include a period of mandatory supervision, is

Hon. Edmund G. Brown, Jr.

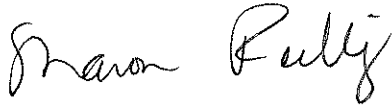
September 18, 2013

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preferable to serving a straight jail sentence, which will be for a shorter period of time. In other words, if these individuals can still have their convictions expunged after serving a shorter jail sentence, they will not have the same incentive to opt for the longer lasting probation or split sentence terms. In addition, the AB 651 places new costs on the courts. For example, if 1,250 petitions are filed per year, the cost would be \$281,250 assuming the full \$150 filing fee is assessed and collected.

For these reasons, the Judicial Council requests your veto on AB 651.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Reilly".

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Hon. Steve Bradford, Member of the Assembly

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor