



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS
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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

April 18, 2013

Hon. Bill Quirk
Member of the Assembly
State Capitol, Room 2175
Sacramento, California 95814

Subject: AB 723 (Quirk), as introduced - Oppose

Dear Assembly Member Quirk:

The Judicial Council opposes AB 723, which allows a person on postrelease community supervision (PRCS) who has a revocation petition filed against him or her to file an application for bail with the superior court. The bill also provides that it is within the sole discretion of the court to admit a person to bail pending revocation of PRCS.

The council is concerned about creating a separate right to apply for bail for a person on PRCS who has a revocation petition filed against him or her, while no comparable statutory provision authorizes applications for bail for persons on probation or parole under this circumstances. The council believes that by authorizing PRCS defendants, who have been incarcerated pending revocation of their PRCS status, to apply for bail, the bill will greatly increase the number of PRCS hearings. In addition, the council believes that virtually all of those individuals would apply for bail, which would result in a considerable increase in the number of bail hearings courts would be required to conduct. As a result, AB 723 would increase the burdens on courts at a time when they can least afford it.

For these reasons, the Judicial Council opposes AB 723.

Hon. Bill Quirk
April 18, 2013
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Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Reilly". The signature is fluid and stylized, with the first name "Sharon" and last name "Reilly" clearly distinguishable.

Sharon Reilly
Senior Attorney

SR/yc-s

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



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July 11, 2013

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

Subject: AB 723 (Quirk), as amended July 2, 2013 – Fiscal Impact Statement and Opposition
Hearing: Senate Appropriations Committee – August 12, 2013

Dear Senator de León:

For reasons of cost, judicial inefficiency and the potential to create confusion in the law, the Judicial Council regrets that it must oppose AB 723, which authorizes persons on post-release community supervision (PRCS) to apply for bail or release on his or her own recognizance during the pendency of court revocation proceedings, specifies that admittance to bail pending revocation of PRCS is within the sole discretion of the court, and provides that a bail application pursuant to the bill's provisions shall be governed by existing statutory procedures for the setting of bail.

The Judicial Council sponsored a legislative proposal, which was incorporated into a budget trailer bill (SB 1023, Stats. 2012, ch. 43), that applies probation revocation procedures under Penal Code section 1203.2 to revocations of mandatory supervision, PRCS, and, beginning July 1, 2013, parole. The intention of this application of the probation revocation procedures is to establish uniformity, thus relieving courts of the burdens associated with implementing separate procedures for each category of supervision.

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Under current law, probationers and parolees are not entitled to bail as a matter of right. Furthermore, no comparable statutory provision authorizes applications for bail for the other categories of supervision. By authorizing persons supervised on PRCS, in contrast to other kinds of supervision, to apply for bail, the council believes that the bill would increase confusion by prescribing a distinct bail procedure applicable only to PRCS, which would undermine the uniformity achieved by the new law to applying probation revocation procedures under Penal Code section 1203.2 to all revocations.

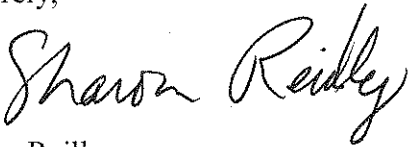
In addition, the council believes that the bill would replace existing informal bail practices with the more formal procedures required by current bail statutes, resulting in a significant increase in bail applications and related hearings, and inadvertently create a distinct standard for evaluating applications for bail in the PRCS context. The costs associated with more formal bail procedures, and the increase in bail applications, are likely to be significant. Currently, bail proceedings take, upon average, 15 minutes per defendant.

Approximately 2,300 petitions to revoke post-release community supervision were filed with the courts statewide under Penal Code section 3455 between October 1, 2011 and February 29, 2012. If this rate of filing remains constant, about 5,520 petitions will be filed each year. It is not possible to know what percentage of these would result in a court hearing, but it is likely that the percentage will be high because the hearing would be available as a matter of right under the terms of AB 723, and it is reasonable to expect that people who are out of confinement on post release community supervision would prefer to request bail rather than return to confinement.

Our calculations use the estimated 5,520 petitions filed annually as a baseline. We are assuming that 5,520 petitions will be filed each year and each requires upwards of 30 minutes. Two petitions heard each hour would result in 2,760 total hours of petition revocation hearing time each year. If divided by eight hours per court day, it would require the equivalent of 345 days for all hearings. Taking into account the time of the judicial officer and courtroom staff, the average cost of a day in court is approximately \$4,000. By multiplying \$4,000 by 345 days, the resulting cost to the courts is \$1,380,000.

If you have questions about the Judicial Council's opposition to AB 723 or would like additional information about the costs estimated here, please contact me at 916-323-3121 or sharon.reilly@jud.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Reilly". The signature is written in dark ink and is positioned above the typed name and title.

Sharon Reilly
Senior Attorney

Hon. Kevin de León

July 11, 2013

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SR/yc-s

cc: Members, Senate Appropriations Committee

Hon. Bill Quirk, 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