



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

September 26, 2019

Hon. Gavin Newsom
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 1076 (Ting)—Request for Veto

Dear Governor Newsom:

The Judicial Council respectfully requests your veto on AB 1076, which, among other things, requires the Department of Justice (DOJ) to review its criminal justice databases monthly to identify persons who are eligible for relief and to notify the courts to withhold eligible conviction records from disclosure to the public. While we appreciate the amendments made on August 30, 2019 to make the bill prospective and make some, but not all, provisions contingent on funding in the annual Budget Act, we continue to have significant concerns about the fiscal impact AB 1076 will have on courts. Based on current filing trends, we estimate ongoing workload costs between \$456,000 and \$884,000; one-time implementation costs between \$700,000 and \$1.6 million; and ongoing revenue losses of more than \$12 million.

The council conservatively estimates that if *only one percent* of future criminal cases were eligible, that would total approximately 32,000¹ cases annually with an ongoing fiscal impact on the courts of between \$200,000 and \$500,000. We note that if the bill works as the author intends and grants relief to eligible persons without a petition or motion being filed on the person's behalf, that amount will be much higher.

The bill also requires courts to hold hearings to consider motions by the prosecution to prohibit a conviction from being withheld from public release but does not make the operation of these provisions contingent on funding in the annual Budget Act. Considering the broad language under which the prosecution may challenge relief, the council estimates if *only 10 percent to 15*

¹ This estimate is based on the 5-year average case disposition rate applied to the total number of felony, misdemeanors, and infraction dispositions in 2017 multiplied by one percent.

percent [of the estimated] 32,000 cases eligible for relief are challenged, this would create a new annual workload in the courts costing between \$256,000 and \$384,000.

Further, the council is concerned that the bill has a potential annual revenue impact between \$12 million and \$16 million because it states: “person[s] granted conviction relief pursuant to this section *shall be released from all penalties* and disabilities resulting from the offense of which the person has been convicted.” (*emphasis added.*) This provision may significantly reduce incentives for individuals to pay criminal penalties and related fines and fees as they would only need to wait one year (for infractions) or one to three years (for misdemeanors or felonies) to be granted automatic relief.

Moreover, the bill will create costs between \$700,000 and \$1.6 million related to the modification of existing court case management systems to provide the technology interface that must exist between the DOJ and the courts for the bill to be implemented. The implementation costs could change significantly based on the technology configuration required by DOJ in the future.

Finally, the council notes that the issue AB 1076 seeks to address, limiting the publicly available information on an individual’s criminal case record that could be discovered in “background checks,” may not be resolved by the bill. There are many private companies that obtain publicly available data from courts and subsequently sell this data. Under AB 1076, there is a minimum one-year period that will pass before an infraction or misdemeanor for an individual who is not on probation is automatically eligible for relief, during which time private companies will still be able to obtain and distribute criminal record information from courts even if that individual’s cases subsequently become eligible for the relief envisioned by AB 1076. While the Investigative Consumer Reporting Agencies Act addresses reporting on criminal convictions, it is unclear how the various timelines in the act will work with AB 1076 (*see* Civ. C., Title 1.6A (commencing with section 1786)).

For these reasons, the Judicial Council requests your veto on AB 1076.

Should you have any questions or require additional information, please contact Sharon Reilly at 916-323-3121.

Sincerely,

Mailed September 26, 2019

Cory T. Jaspersen
Director, Governmental Affairs

Hon. Gavin Newsom

September 26, 2019

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CJ/SR/jh

cc: Hon. Philip Ting, Member of the Assembly
Hon. David Chiu, Member of the Assembly
Hon. Mark Stone, Member of the Assembly
Hon. Scott Wiener, Member of the Senate
Mr. Edward Little, Californians for Safety and Justice
Ms. Maria McKee, San Francisco District Attorney's Office
Mr. Anthony Williams, Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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August 20, 2019

Hon. Philp Y. Ting
Member of the Assembly
State Capitol, Room 6026
Sacramento, California 95814

Subject: AB 1076 (Ting), as amended August 12, 2019 – Oppose unless funded

Dear Assembly Member Ting:

The Judicial Council regrettably opposes AB 1076 unless funded because the council conservatively estimates an annual workload impact of between \$3.5 million and \$10 million on courts as well as potential court revenue reductions of between \$12 million and \$16 million annually. Further, the bill has the potential to create significant costs related to the modification of existing court case management systems to provide the technology interface that must exist between the DOJ and the courts for the bill to be implemented.

For these reasons, the Judicial Council regrettably opposes AB 1076 unless funded.

For additional information about the fiscal and workload impacts of AB 1076, see the attached Fiscal Impact Statement.

Hon. Philip Ting
August 20, 2019
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Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Mailed August 20, 2019

Sharon Reilly
Attorney

SR/jh

cc: Hon. Philip Ting, Member of the Assembly
Hon. David Chiu, Member of the Assembly
Hon. Mark Stone, Member of the Assembly
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Mr. Martin Hoshino, Administrative Director, Judicial Council of California