

**Introduced by Senator Hancock  
(Coauthor: Senator Leno)**

February 26, 2015

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An act to amend Sections 13952 and 13956 of the Government Code, and to amend Sections 1203.4, 1203.4a, and 1203.41 of the Penal Code, relating to victims of crime, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 519, as introduced, Hancock. Victims of crime: compensation.

(1) Existing law provides for the indemnification of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, procedures for hearings with respect to the denial of awards, and publicizing of the program by the board. Payment is made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

This bill would require all correspondence by the board to an applicant to be written in English, Spanish, and Chinese. The bill would prohibit the board from requiring an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department in order to determine eligibility for compensation.

(2) Existing law requires an application for compensation to be denied if the board finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing a crime. Existing law also requires an application for

compensation to be denied if a person has been convicted of a felony and is not discharged from probation.

This bill would prohibit a claim from being denied pursuant to these provisions in any case in which the victim is eligible for compensation as a minor. This bill would also remove the prohibition against granting compensation to a person convicted of a felony, but not discharged from parole, if the compensation is solely used to fund mental health counseling. By expanding the eligibility for payments from a continuously appropriated fund, this bill would make an appropriation.

(3) Existing law permits a defendant to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty in any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or has been convicted of a misdemeanor and not granted probation and has fully complied with and performed the sentence of the court, or has been sentenced to a county jail for a felony, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted this or other specified relief and requires the defendant to be released from all penalties and disabilities resulting from the offense of which he or she has been convicted.

This bill would state that the dismissal of an accusation or information underlying a conviction pursuant to these provisions does not relieve a person from paying a restitution fine or direct restitution. By increasing the revenues deposited into a continuously appropriated fund, this bill would make an appropriation.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 13952 of the Government Code is
- 2 amended to read:
- 3 13952. (a) An application for compensation shall be filed with
- 4 the board in the manner determined by the board.
- 5 (b) (1) The application for compensation shall be verified under
- 6 penalty of perjury by the individual who is seeking compensation,
- 7 who may be the victim or derivative victim, or an individual
- 8 seeking reimbursement for burial, funeral, or crime scene cleanup
- 9 expenses pursuant to subdivision (a) of Section 13957. If the

1 individual seeking compensation is a minor or is incompetent, the  
2 application shall be verified under penalty of perjury or on  
3 information and belief by the parent with legal custody, guardian,  
4 conservator, or relative caregiver of the victim or derivative victim  
5 for whom the application is made. However, if a minor seeks  
6 compensation only for expenses for medical, medical-related,  
7 psychiatric, psychological, or other mental health  
8 counseling-related services and the minor is authorized by statute  
9 to consent to those services, the minor may verify the application  
10 for compensation under penalty of perjury.

11 (2) For purposes of this subdivision, “relative caregiver” means  
12 a relative as defined in subdivision ~~(i)~~ (h) of Section 6550 of the  
13 Family Code, who assumed primary responsibility for the child  
14 while the child was in the relative’s care and control, and who is  
15 not a biological or adoptive parent.

16 (c) (1) The board may require submission of additional  
17 information supporting the application that is reasonably necessary  
18 to verify the application and determine eligibility for compensation.

19 (2) The staff of the board shall determine whether an application  
20 for compensation contains all of the information required by the  
21 board. If the staff determines that an application does not contain  
22 all of the required information, the staff shall communicate that  
23 determination to the applicant with a brief statement of the  
24 additional information required. The applicant, within 30 calendar  
25 days of being notified that the application is incomplete, may either  
26 supply the additional information or appeal the staff’s  
27 determination to the board, which shall review the application to  
28 determine whether it is complete.

29 (3) *The board shall not require an applicant to submit*  
30 *documentation from the Internal Revenue Service, the Franchise*  
31 *Tax Board, the State Board of Equalization, the Social Security*  
32 *Administration, or the Employment Development Department in*  
33 *order to determine eligibility for compensation.*

34 (d) (1) The board may recognize an authorized representative  
35 of the victim or derivative victim, who shall represent the victim  
36 or derivative victim pursuant to rules adopted by the board.

37 (2) For purposes of this subdivision, “authorized representative”  
38 means any of the following:

39 (A) An attorney.

1 (B) If the victim or derivative victim is a minor or an  
2 incompetent adult, the legal guardian or conservator, or an  
3 immediate family member, parent, or relative caregiver who is not  
4 the perpetrator of the crime that gave rise to the claim.

5 (C) A victim assistance advocate certified pursuant to Section  
6 13835.10 of the Penal Code.

7 (D) An immediate family member of the victim or derivative  
8 victim, who has written authorization by the victim or derivative  
9 victim, and who is not the perpetrator of the crime that gave rise  
10 to the claim.

11 (E) Other persons who shall represent the victim or derivative  
12 victim pursuant to rules adopted by the board.

13 (F) A county social worker designated by a county department  
14 of social services to represent a child abuse victim or an elder  
15 abuse victim if that victim is unable to file on his or her own behalf.

16 (3) Except for attorney’s fees awarded under this chapter, no  
17 authorized representative described in paragraph (2) shall charge,  
18 demand, receive, or collect any amount for services rendered under  
19 this subdivision.

20 (e) *All correspondence by the board to an applicant shall be*  
21 *written in English, Spanish, and Chinese.*

22 SEC. 2. Section 13956 of the Government Code is amended  
23 to read:

24 13956. Notwithstanding Section 13955, a person shall not be  
25 eligible for compensation under the following conditions:

26 (a) An application shall be denied if the board finds that the  
27 victim or, if compensation is sought by or on behalf of a derivative  
28 victim, either the victim or derivative victim, knowingly and  
29 willingly participated in the commission of the crime that resulted  
30 in the pecuniary loss for which compensation is being sought  
31 pursuant to this chapter. However, this subdivision shall not apply  
32 if the injury or death occurred as a direct result of a crime  
33 committed in violation of Section 261, 262, or 273.5 of, or a crime  
34 of unlawful sexual intercourse with a minor committed in violation  
35 of subdivision (d) of Section 261.5 of, the Penal Code.

36 (b) (1) An application shall be denied if the board finds that  
37 the victim or, if compensation is sought by, or on behalf of, a  
38 derivative victim, either the victim or derivative victim failed to  
39 cooperate reasonably with a law enforcement agency in the  
40 apprehension and conviction of a criminal committing the crime.

1 However, in determining whether cooperation has been reasonable,  
2 the board shall consider the victim's or derivative victim's age,  
3 physical condition, and psychological state, cultural or linguistic  
4 barriers, any compelling health and safety concerns, including, but  
5 not limited to, a reasonable fear of retaliation or harm that would  
6 jeopardize the well-being of the victim or the victim's family or  
7 the derivative victim or the derivative victim's family, and giving  
8 due consideration to the degree of cooperation of which the victim  
9 or derivative victim is capable in light of the presence of any of  
10 these factors. *An application for a claim shall not be denied*  
11 *pursuant to this paragraph in any case in which the victim is*  
12 *eligible for compensation as a minor.*

13 (2) An application for a claim based on domestic violence shall  
14 not be denied solely because no police report was made by the  
15 victim. The board shall adopt guidelines that allow the board to  
16 consider and approve applications for assistance based on domestic  
17 violence relying upon evidence other than a police report to  
18 establish that a domestic violence crime has occurred. Factors  
19 evidencing that a domestic violence crime has occurred may  
20 include, but are not limited to, medical records documenting  
21 injuries consistent with allegations of domestic violence, mental  
22 health records, or the fact that the victim has obtained a temporary  
23 or permanent restraining order, or all of these.

24 (3) An application for a claim based on human trafficking as  
25 defined in Section 236.1 of the Penal Code shall not be denied  
26 solely because no police report was made by the victim. The board  
27 shall adopt guidelines that allow the board to consider and approve  
28 applications for assistance based on human trafficking relying  
29 upon evidence other than a police report to establish that a human  
30 trafficking crime as defined in Section 236.1 of the Penal Code  
31 has occurred. That evidence may include any reliable corroborating  
32 information approved by the board, including, but not limited to,  
33 the following:

34 (A) A Law Enforcement Agency Endorsement issued pursuant  
35 to Section 236.2 of the Penal Code.

36 (B) A human trafficking caseworker as identified in Section  
37 1038.2 of the Evidence Code, has attested by affidavit that the  
38 individual was a victim of human trafficking.

39 (4) (A) An application for a claim by a military personnel victim  
40 based on a sexual assault by another military personnel shall not

1 be denied solely because it was not reported to a superior officer  
2 or law enforcement at the time of the crime.

3 (B) Factors that the board shall consider for purposes of  
4 determining if a claim qualifies for compensation include, but are  
5 not limited to, the evidence of the following:

6 (i) Restricted or unrestricted reports to a military victim  
7 advocate, sexual assault response coordinator, chaplain, attorney,  
8 or other military personnel.

9 (ii) Medical or physical evidence consistent with sexual assault.

10 (iii) A written or oral report from military law enforcement or  
11 a civilian law enforcement agency concluding that a sexual assault  
12 crime was committed against the victim.

13 (iv) A letter or other written statement from a sexual assault  
14 counselor, as defined in Section 1035.2 of the Evidence Code,  
15 licensed therapist, or mental health counselor, stating that the  
16 victim is seeking services related to the allegation of sexual assault.

17 (v) A credible witness to whom the victim disclosed the details  
18 that a sexual assault crime occurred.

19 (vi) A restraining order from a military or civilian court against  
20 the perpetrator of the sexual assault.

21 (vii) Other behavior by the victim consistent with sexual assault.

22 (C) For purposes of this subdivision, the sexual assault at issue  
23 shall have occurred during military service, including deployment.

24 (D) For purposes of this subdivision, the sexual assault may  
25 have been committed offbase.

26 (E) For purposes of this subdivision, a “perpetrator” means an  
27 individual who is any of the following at the time of the sexual  
28 assault:

29 (i) An active duty military personnel from the United States  
30 Army, Navy, Marine Corps, Air Force, or Coast Guard.

31 (ii) A civilian employee of any military branch specified in  
32 clause (i), military base, or military deployment.

33 (iii) A contractor or agent of a private military or private security  
34 company.

35 (iv) A member of the California National Guard.

36 (F) For purposes of this subdivision, “sexual assault” means an  
37 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of  
38 the Penal Code, as of the date the act that added this paragraph  
39 was enacted.

1 (c) An application for compensation may be denied, in whole  
2 or in part, if the board finds that denial is appropriate because of  
3 the nature of the victim's or other applicant's involvement in the  
4 events leading to the crime or the involvement of the persons whose  
5 injury or death gives rise to the application. In the case of a minor,  
6 the board shall consider the minor's age, physical condition, and  
7 psychological state, as well as any compelling health and safety  
8 concerns, in determining whether the minor's application should  
9 be denied pursuant to this section. The application of a derivative  
10 victim of domestic violence under the age of 18 years of age or a  
11 derivative victim of trafficking under 18 years of age may not be  
12 denied on the basis of the denial of the victim's application under  
13 this subdivision.

14 (d) (1) Notwithstanding Section 13955, ~~no~~ a person who is  
15 convicted of a felony ~~may~~ *shall not* be granted compensation until  
16 that person has been discharged from probation or has been  
17 released from a correctional institution and has been discharged  
18 from parole, ~~if any~~ *unless the compensation is solely used to*  
19 *fund mental health counseling*. In no case shall compensation be  
20 granted to an applicant pursuant to this chapter during any period  
21 of time the applicant is held in a correctional institution.

22 (2) A person who has been convicted of a felony may apply for  
23 compensation pursuant to this chapter at any time, but the award  
24 of that compensation may not be considered until the applicant  
25 meets the requirements for compensation set forth in paragraph  
26 (1).

27 (3) Applications of victims who are not felons shall receive  
28 priority in the award of compensation over an application submitted  
29 by a felon who has met the requirements for compensation set  
30 forth in paragraph (1).

31 SEC. 3. Section 1203.4 of the Penal Code is amended to read:

32 1203.4. (a) (1) In any case in which a defendant has fulfilled  
33 the conditions of probation for the entire period of probation, or  
34 has been discharged prior to the termination of the period of  
35 probation, or in any other case in which a court, in its discretion  
36 and the interests of justice, determines that a defendant should be  
37 granted the relief available under this section, the defendant shall,  
38 at any time after the termination of the period of probation, if he  
39 or she is not then serving a sentence for any offense, on probation  
40 for any offense, or charged with the commission of any offense,

1 be permitted by the court to withdraw his or her plea of guilty or  
2 plea of nolo contendere and enter a plea of not guilty; or, if he or  
3 she has been convicted after a plea of not guilty, the court shall  
4 set aside the verdict of guilty; and, in either case, the court shall  
5 thereupon dismiss the accusations or information against the  
6 defendant and except as noted below, he or she shall thereafter be  
7 released from all penalties and disabilities resulting from the  
8 offense of which he or she has been convicted, except as provided  
9 in Section 13555 of the Vehicle Code. The probationer shall be  
10 informed, in his or her probation papers, of this right and privilege  
11 and his or her right, if any, to petition for a certificate of  
12 rehabilitation and pardon. The probationer may make the  
13 application and change of plea in person or by attorney, or by the  
14 probation officer authorized in writing. However, in any subsequent  
15 prosecution of the defendant for any other offense, the prior  
16 conviction may be pleaded and proved and shall have the same  
17 effect as if probation had not been granted or the accusation or  
18 information dismissed. The order shall state, and the probationer  
19 shall be informed, that the order does not relieve him or her of the  
20 obligation to disclose the conviction in response to any direct  
21 question contained in any questionnaire or application for public  
22 office, for licensure by any state or local agency, or for contracting  
23 with the California State Lottery Commission.

24 (2) Dismissal of an accusation or information pursuant to this  
25 section does not permit a person to own, possess, or have in his or  
26 her custody or control any firearm or prevent his or her conviction  
27 under Chapter 2 (commencing with Section 29800) of Division 9  
28 of Title 4 of Part 6.

29 (3) Dismissal of an accusation or information underlying a  
30 conviction pursuant to this section does not permit a person  
31 prohibited from holding public office as a result of that conviction  
32 to hold public office.

33 (4) *Dismissal of an accusation or information underlying a*  
34 *conviction pursuant to this section does not relieve a person from*  
35 *paying a restitution fine imposed pursuant to subdivision (b) of*  
36 *Section 1202.4 or direct restitution imposed pursuant to subdivision*  
37 *(f) of Section 1202.4.*

38 (4)

39 (5) This subdivision shall apply to all applications for relief  
40 under this section which are filed on or after November 23, 1970.

1 (b) Subdivision (a) of this section does not apply to any  
2 misdemeanor that is within the provisions of Section 42002.1 of  
3 the Vehicle Code, to any violation of subdivision (c) of Section  
4 286, Section 288, subdivision (c) of Section 288a, Section 288.5,  
5 subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or  
6 311.11, or any felony conviction pursuant to subdivision (d) of  
7 Section 261.5, or to any infraction.

8 (c) (1) Except as provided in paragraph (2), subdivision (a)  
9 does not apply to a person who receives a notice to appear or is  
10 otherwise charged with a violation of an offense described in  
11 subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle  
12 Code.

13 (2) If a defendant who was convicted of a violation listed in  
14 paragraph (1) petitions the court, the court in its discretion and in  
15 the interests of justice, may order the relief provided pursuant to  
16 subdivision (a) to that defendant.

17 (d) A person who petitions for a change of plea or setting aside  
18 of a verdict under this section may be required to reimburse the  
19 court for the actual costs of services rendered, whether or not the  
20 petition is granted and the records are sealed or expunged, at a rate  
21 to be determined by the court not to exceed one hundred fifty  
22 dollars (\$150), and to reimburse the county for the actual costs of  
23 services rendered, whether or not the petition is granted and the  
24 records are sealed or expunged, at a rate to be determined by the  
25 county board of supervisors not to exceed one hundred fifty dollars  
26 (\$150), and to reimburse any city for the actual costs of services  
27 rendered, whether or not the petition is granted and the records are  
28 sealed or expunged, at a rate to be determined by the city council  
29 not to exceed one hundred fifty dollars (\$150). Ability to make  
30 this reimbursement shall be determined by the court using the  
31 standards set forth in paragraph (2) of subdivision (g) of Section  
32 987.8 and shall not be a prerequisite to a person's eligibility under  
33 this section. The court may order reimbursement in any case in  
34 which the petitioner appears to have the ability to pay, without  
35 undue hardship, all or any portion of the costs for services  
36 established pursuant to this subdivision.

37 (e) (1) Relief shall not be granted under this section unless the  
38 prosecuting attorney has been given 15 days' notice of the petition  
39 for relief. The probation officer shall notify the prosecuting attorney  
40 when a petition is filed, pursuant to this section.

1 (2) It shall be presumed that the prosecuting attorney has  
2 received notice if proof of service is filed with the court.

3 (f) If, after receiving notice pursuant to subdivision (e), the  
4 prosecuting attorney fails to appear and object to a petition for  
5 dismissal, the prosecuting attorney may not move to set aside or  
6 otherwise appeal the grant of that petition.

7 (g) Notwithstanding the above provisions or any other provision  
8 of law, the Governor shall have the right to pardon a person  
9 convicted of a violation of subdivision (c) of Section 286, Section  
10 288, subdivision (c) of Section 288a, Section 288.5, or subdivision  
11 (j) of Section 289, if there are extraordinary circumstances.

12 SEC. 4. Section 1203.4a of the Penal Code is amended to read:

13 1203.4a. (a) Every defendant convicted of a misdemeanor and  
14 not granted probation, and every defendant convicted of an  
15 infraction shall, at any time after the lapse of one year from the  
16 date of pronouncement of judgment, if he or she has fully complied  
17 with and performed the sentence of the court, is not then serving  
18 a sentence for any offense and is not under charge of commission  
19 of any crime, and has, since the pronouncement of judgment, lived  
20 an honest and upright life and has conformed to and obeyed the  
21 laws of the land, be permitted by the court to withdraw his or her  
22 plea of guilty or nolo contendere and enter a plea of not guilty; or  
23 if he or she has been convicted after a plea of not guilty, the court  
24 shall set aside the verdict of guilty; and in either case the court  
25 shall thereupon dismiss the accusatory pleading against the  
26 defendant, who shall thereafter be released from all penalties and  
27 disabilities resulting from the offense of which he or she has been  
28 convicted, except as provided in Chapter 3 (commencing with  
29 Section 29900) of Division 9 of Title 4 of Part 6 of this code or  
30 Section 13555 of the Vehicle Code.

31 (b) If a defendant does not satisfy all the requirements of  
32 subdivision (a), after a lapse of one year from the date of  
33 pronouncement of judgment, a court, in its discretion and in the  
34 interests of justice, may grant the relief available pursuant to  
35 subdivision (a) to a defendant convicted of an infraction, or of a  
36 misdemeanor and not granted probation, or both, if he or she has  
37 fully complied with and performed the sentence of the court, is  
38 not then serving a sentence for any offense, and is not under charge  
39 of commission of any crime.

1 (c) (1) The defendant shall be informed of the provisions of  
2 this section, either orally or in writing, at the time he or she is  
3 sentenced. The defendant may make an application and change of  
4 plea in person or by attorney, or by the probation officer authorized  
5 in writing, provided that, in any subsequent prosecution of the  
6 defendant for any other offense, the prior conviction may be  
7 pleaded and proved and shall have the same effect as if relief had  
8 not been granted pursuant to this section.

9 (2) Dismissal of an accusatory pleading pursuant to this section  
10 does not permit a person to own, possess, or have in his or her  
11 custody or control any firearm or prevent his or her conviction  
12 under Chapter 2 (commencing with Section 29800) of Division 9  
13 of Title 4 of Part 6.

14 (3) Dismissal of an accusatory pleading underlying a conviction  
15 pursuant to this section does not permit a person prohibited from  
16 holding public office as a result of that conviction to hold public  
17 office.

18 (4) *Dismissal of an accusation or information underlying a*  
19 *conviction pursuant to this section does not relieve a person from*  
20 *paying a restitution fine imposed pursuant to subdivision (b) of*  
21 *Section 1202.4 or direct restitution imposed pursuant to subdivision*  
22 *(f) of Section 1202.4.*

23 (d) This section applies to any conviction specified in  
24 subdivision (a) or (b) that occurred before, as well as those  
25 occurring after, the effective date of this section, except that this  
26 section does not apply to the following:

27 (1) A misdemeanor violation of subdivision (c) of Section 288.

28 (2) Any misdemeanor falling within the provisions of Section  
29 42002.1 of the Vehicle Code.

30 (3) Any infraction falling within the provisions of Section 42001  
31 of the Vehicle Code.

32 (e) A person who petitions for a dismissal of a charge under  
33 this section may be required to reimburse the county and the court  
34 for the cost of services rendered at a rate to be determined by the  
35 county board of supervisors for the county and by the court for the  
36 court, not to exceed sixty dollars (\$60), and to reimburse any city  
37 for the cost of services rendered at a rate to be determined by the  
38 city council not to exceed sixty dollars (\$60). Ability to make this  
39 reimbursement shall be determined by the court using the standards  
40 set forth in paragraph (2) of subdivision (g) of Section 987.8 and

1 shall not be a prerequisite to a person’s eligibility under this  
2 section. The court may order reimbursement in any case in which  
3 the petitioner appears to have the ability to pay, without undue  
4 hardship, all or any portion of the cost for services established  
5 pursuant to this subdivision.

6 (f) A petition for dismissal of an infraction pursuant to this  
7 section shall be by written declaration, except upon a showing of  
8 compelling need. Dismissal of an infraction shall not be granted  
9 under this section unless the prosecuting attorney has been given  
10 at least 15 days’ notice of the petition for dismissal. It shall be  
11 presumed that the prosecuting attorney has received notice if proof  
12 of service is filed with the court.

13 (g) Any determination of amount made by a court under this  
14 section shall be valid only if either (1) made under procedures  
15 adopted by the Judicial Council or (2) approved by the Judicial  
16 Council.

17 SEC. 5. Section 1203.41 of the Penal Code is amended to read:

18 1203.41. (a) If a defendant is sentenced pursuant to paragraph  
19 (5) of subdivision (h) of Section 1170, the court, in its discretion  
20 and in the interests of justice, may order the following relief,  
21 subject to the conditions of subdivision (b):

22 (1) The court may permit the defendant to withdraw his or her  
23 plea of guilty or plea of nolo contendere and enter a plea of not  
24 guilty, or, if he or she has been convicted after a plea of not guilty,  
25 the court shall set aside the verdict of guilty, and, in either case,  
26 the court shall thereupon dismiss the accusations or information  
27 against the defendant and he or she shall thereafter be released  
28 from all penalties and disabilities resulting from the offense of  
29 which he or she has been convicted, except as provided in Section  
30 13555 of the Vehicle Code.

31 (2) The relief available under this section may be granted only  
32 after the lapse of one year following the defendant’s completion  
33 of the sentence, if the sentence was imposed pursuant to  
34 subparagraph (B) of paragraph (5) of subdivision (h) of Section  
35 1170, or after the lapse of two years following the defendant’s  
36 completion of the sentence, if the sentence was imposed pursuant  
37 to subparagraph (A) of paragraph (5) of subdivision (h) of Section  
38 1170.

39 (3) The relief available under this section may be granted only  
40 if the defendant is not under supervision pursuant to subparagraph

1 (B) of paragraph (5) of subdivision (h) of Section 1170, and is not  
2 serving a sentence for, on probation for, or charged with the  
3 commission of any offense.

4 (4) The defendant shall be informed, either orally or in writing,  
5 of the provisions of this section and of his or her right, if any, to  
6 petition for a certificate of rehabilitation and pardon at the time he  
7 or she is sentenced.

8 (5) The defendant may make the application and change of plea  
9 in person or by attorney, or by a probation officer authorized in  
10 writing.

11 (b) Relief granted pursuant to subdivision (a) is subject to the  
12 following conditions:

13 (1) In any subsequent prosecution of the defendant for any other  
14 offense, the prior conviction may be pleaded and proved and shall  
15 have the same effect as if the accusation or information had not  
16 been dismissed.

17 (2) The order shall state, and the defendant shall be informed,  
18 that the order does not relieve him or her of the obligation to  
19 disclose the conviction in response to any direct question contained  
20 in any questionnaire or application for public office, for licensure  
21 by any state or local agency, or for contracting with the California  
22 State Lottery Commission.

23 (3) Dismissal of an accusation or information pursuant to this  
24 section does not permit a person to own, possess, or have in his or  
25 her custody or control any firearm or prevent his or her conviction  
26 under Chapter 2 (commencing with Section 29800) of Division 9  
27 of Title 4 of Part 6.

28 (4) Dismissal of an accusation or information underlying a  
29 conviction pursuant to this section does not permit a person  
30 prohibited from holding public office as a result of that conviction  
31 to hold public office.

32 (5) *Dismissal of an accusation or information underlying a*  
33 *conviction pursuant to this section does not relieve a person from*  
34 *paying a restitution fine imposed pursuant to subdivision (b) of*  
35 *Section 1202.4 or direct restitution imposed pursuant to subdivision*  
36 *(f) of Section 1202.4.*

37 (c) This section applies to any conviction specified in  
38 subdivision (a) that occurred before, on, or after January 1, 2014.

39 (d) A person who petitions for a change of plea or setting aside  
40 of a verdict under this section may be required to reimburse the

1 court for the actual costs of services rendered, whether or not the  
2 petition is granted and the records are sealed or expunged, at a rate  
3 to be determined by the court not to exceed one hundred fifty  
4 dollars (\$150), and to reimburse the county for the actual costs of  
5 services rendered, whether or not the petition is granted and the  
6 records are sealed or expunged, at a rate to be determined by the  
7 county board of supervisors not to exceed one hundred fifty dollars  
8 (\$150), and to reimburse any city for the actual costs of services  
9 rendered, whether or not the petition is granted and the records are  
10 sealed or expunged, at a rate to be determined by the city council  
11 not to exceed one hundred fifty dollars (\$150). Ability to make  
12 this reimbursement shall be determined by the court using the  
13 standards set forth in paragraph (2) of subdivision (g) of Section  
14 987.8 and shall not be a prerequisite to a person's eligibility under  
15 this section. The court may order reimbursement in any case in  
16 which the petitioner appears to have the ability to pay, without  
17 undue hardship, all or any portion of the costs for services  
18 established pursuant to this subdivision.

19 (e) (1) Relief shall not be granted under this section unless the  
20 prosecuting attorney has been given 15 days' notice of the petition  
21 for relief. The probation officer shall notify the prosecuting attorney  
22 when a petition is filed, pursuant to this section.

23 (2) It shall be presumed that the prosecuting attorney has  
24 received notice if proof of service is filed with the court.

25 (f) If, after receiving notice pursuant to subdivision (e), the  
26 prosecuting attorney fails to appear and object to a petition for  
27 dismissal, the prosecuting attorney may not move to set aside or  
28 otherwise appeal the grant of that petition.