

ASSEMBLY BILL

No. 2017

**Introduced by Assembly Members Escutia, Bustamante,
Ducheny, Gallegos, and McDonald**
(Coauthors: Senators Hughes and Polanco)

January 9, 1996

An act to amend Sections 4582.01, 4582.03, 4582.05, 4582.06, and 4852.13, relating to criminal offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2017, as introduced, Escutia. Criminal offenders: rehabilitation.

Existing law permits any person who is convicted of a felony or a misdemeanor violation of any of specified sex offenses, the accusatory pleading of which has been dismissed, to file a petition for a certificate of rehabilitation and pardon if the person has not been incarcerated since that dismissal, is not on probation for the commission of any other felony, and presents satisfactory evidence of a 3-year residence in California. Existing law provides that the court shall grant the certificate of rehabilitation if it finds that the petitioner has demonstrated his or her rehabilitation.

This bill would provide that these provisions shall not apply to any person who has been convicted of more than one sex offense with a minor, would extend the rehabilitation period to 5 years, and would authorize the court to rescind the certificate if the person has not maintained a specified standard of conduct. The bill would also require the petitioner to demonstrate his or her rehabilitation by a preponderance

of the evidence and provide that the court may grant the certificate if it finds that the petitioner has been rehabilitated.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 4852.01 of the Penal Code is
2 amended to read:

3 4852.01. (a) Any person convicted of a felony who
4 has been released from a state prison or other state penal
5 institution or agency in California, whether discharged on
6 completion of the term for which he *or she* was sentenced
7 or released on parole prior to May 13, 1943, who has not
8 been incarcerated in a state prison or other state penal
9 institution or agency since his *or her* release and who
10 presents satisfactory evidence of a three-year residence
11 in this state immediately prior to the filing of the petition
12 for a certificate of rehabilitation and pardon provided for
13 by this chapter, may file ~~such~~ *the* petition pursuant to the
14 provisions of this chapter.

15 (b) Any person convicted of a felony who, on May 13,
16 1943, was confined in a state prison or other institution or
17 agency to which he *or she* was committed and any person
18 convicted of a felony after that date who is committed to
19 a state prison or other institution or agency may file a
20 petition for a certificate of rehabilitation and pardon
21 pursuant to the provisions of this chapter.

22 (c) Any person convicted of a felony or any person
23 who is convicted of a misdemeanor violation of any sex
24 offense specified in Section 290, the accusatory pleading
25 of which has been dismissed pursuant to Section 1203.4,
26 may file a petition for certificate of rehabilitation and
27 pardon pursuant to the provisions of this chapter;
28 ~~provided if~~ the petitioner has not been incarcerated in
29 any prison, jail, detention facility, or other penal
30 institution or agency since the dismissal of the accusatory
31 pleading and is not on probation for the commission of
32 any other felony, and *the* petitioner presents satisfactory



1 evidence of ~~three~~ *five* years residence in this state prior
2 to the filing of the petition.

3 (d) This chapter shall not apply to persons serving a
4 mandatory life parole; ~~to~~, persons committed under
5 death sentences; ~~or to~~, persons in the military service, *or*
6 *persons who have been convicted of more than one sex*
7 *offense with a minor.*

8 SEC. 2. Section 4852.03 of the Penal Code is amended
9 to read:

10 4852.03. (a) The period of rehabilitation shall begin
11 to run upon the discharge of the petitioner from custody
12 due to his or her completion of the term to which he or
13 she was sentenced or upon his or her release on parole or
14 probation, whichever is sooner. For purposes of this
15 chapter, the period of rehabilitation shall constitute ~~three~~
16 *five* years' residence in this state, plus a period of time
17 determined by the following rules:

18 (1) To the ~~three~~ *five* years there shall be added four
19 years in the case of any person convicted of violating
20 Section 187, 209, 219, 4500 or 12310 of this code, or
21 subdivision (a) of Section 1672 of the Military and
22 Veterans Code, or of committing any other offense which
23 carries a life sentence.

24 (2) To the ~~three~~ *five* years there shall be added two
25 years in the case of any person convicted of committing
26 any offense which is not listed in paragraph (1) and which
27 does not carry a life sentence.

28 (3) The trial court hearing the application for the
29 certificate of rehabilitation may, if the defendant was
30 ordered to serve consecutive sentences, order that his or
31 her statutory period of rehabilitation be extended for an
32 additional period of time which when combined with the
33 time already served will not exceed the period prescribed
34 by statute for the sum of the maximum penalties for all
35 the crimes.

36 (4) Any person who was discharged after completion
37 of his or her term or was released on parole before May
38 13, 1943, is not subject to the periods of rehabilitation set
39 forth in these rules.



1 (b) Unless and until the period of rehabilitation, as
2 stipulated in this section, has passed, the petitioner shall
3 be ineligible to file his or her petition for a certificate of
4 rehabilitation with the court. Any certificate of
5 rehabilitation which is issued and under which the
6 petitioner has not fulfilled the requirements of this
7 chapter shall be void.

8 (c) A change of residence within this state does not
9 interrupt the period of rehabilitation prescribed by this
10 section.

11 SEC. 3. Section 4852.05 of the Penal Code is amended
12 to read:

13 4852.05. ~~During the period of rehabilitation the~~
14 (a) *The person shall live an honest and upright life, shall*
15 *conduct himself or herself with sobriety and industry,*
16 *shall exhibit a good moral character, and shall conform to*
17 *and obey the laws of the land.*

18 (b) *If the person fails to meet the standard of conduct*
19 *specified in subdivision (a) during the period of*
20 *rehabilitation, the court shall deny the petition.*

21 (c) *If the person fails to meet the standard of conduct*
22 *specified in subdivision (a) after the certificate of*
23 *rehabilitation has been granted, the court may rescind*
24 *the certificate.*

25 SEC. 4. Section 4852.06 of the Penal Code is amended
26 to read:

27 4852.06. Except as provided in subdivision (a) of
28 Section 4852.01, after the expiration of the minimum
29 period of rehabilitation applicable to him *or her* (and, in
30 the case of persons released upon parole or probation,
31 after the termination of parole or probation), each person
32 who has complied with the requirements of Section
33 4852.05 may file in the superior court of the county in
34 which he *or she* then resides a petition for ascertainment
35 and declaration of the fact of his *or her* rehabilitation and
36 of matters incident thereto, and for a certificate of
37 rehabilitation under this chapter. No ~~such~~ petition shall
38 be filed until and unless the petitioner has continuously
39 resided in this state, after leaving prison, for a period of



1 not less than ~~three~~ *five* years immediately preceding the
2 date of filing the petition.

3 SEC. 5. Section 4852.13 of the Penal Code is amended
4 to read:

5 4852.13. If, after hearing, the court finds that the
6 petitioner has demonstrated by his *or her* course of
7 conduct his *or her* rehabilitation and his *or her* fitness to
8 exercise all of the civil and political rights of citizenship
9 *by a preponderance of the evidence*, the court ~~shall~~ *may*
10 make an order declaring that the petitioner has been
11 rehabilitated, and recommending that the Governor
12 grant a full pardon to the petitioner. ~~Such~~ *This* order shall
13 be filed with the clerk of the court, and shall be known as
14 a certificate of rehabilitation.

