

AMENDED IN SENATE JUNE 12, 2000
AMENDED IN ASSEMBLY APRIL 11, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2320

Introduced by Assembly Member Dickerson

February 24, 2000

An act to amend Section 1203.4 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2320, as amended, Dickerson. Sex offenders: unlawful intercourse with *a* minor.

Existing law provides that a person who has successfully completed probation shall have the accusations or information against him or her dismissed and shall be released from all penalties and disabilities resulting from the offense, except as specified.

This bill would provide that these provisions shall not apply to persons ~~guilty of a misdemeanor violation of the offense involving unlawful intercourse with a minor 21 years of age or older convicted of a felony violation of engaging in unlawful sexual intercourse with a minor who is under 16 years of age.~~

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 1203.4 of the Penal Code is
2 amended to read:
3 1203.4. (a) In any case in which a defendant has
4 fulfilled the conditions of probation for the entire period
5 of probation, or has been discharged prior to the
6 termination of the period of probation, or in any other
7 case in which a court, in its discretion and the interests of
8 justice, determines that a defendant should be granted
9 the relief available under this section, the defendant shall,
10 at any time after the termination of the period of
11 probation, if he or she is not then serving a sentence for
12 any offense, on probation for any offense, or charged with
13 the commission of any offense, be permitted by the court
14 to withdraw his or her plea of guilty or plea of nolo
15 contendere and enter a plea of not guilty; or, if he or she
16 has been convicted after a plea of not guilty, the court
17 shall set aside the verdict of guilty; and, in either case, the
18 court shall thereupon dismiss the accusations or
19 information against the defendant and except as noted
20 below, he or she shall thereafter be released from all
21 penalties and disabilities resulting from the offense of
22 which he or she has been convicted, except as provided
23 in Section 13555 of the Vehicle Code. The probationer
24 shall be informed, in his or her probation papers, of this
25 right and privilege and his or her right, if any, to petition
26 for a certificate of rehabilitation and pardon. The
27 probationer may make the application and change of plea
28 in person or by attorney, or by the probation officer
29 authorized in writing. However, in any subsequent
30 prosecution of the defendant for any other offense, the
31 prior conviction may be pleaded and proved and shall
32 have the same effect as if probation had not been granted
33 or the accusation or information dismissed. The order
34 shall state, and the probationer shall be informed, that the
35 order does not relieve him or her of the obligation to
36 disclose the conviction in response to any direct question
37 contained in any questionnaire or application for public



1 office, for licensure by any state or local agency, or for
2 contracting with the California State Lottery.

3 Dismissal of an accusation or information pursuant to
4 this section does not permit a person to own, possess, or
5 have in his or her custody or control any firearm capable
6 of being concealed upon the person or prevent his or her
7 conviction under Section 12021.

8 This subdivision shall apply to all applications for relief
9 under this section which are filed on or after November
10 23, 1970.

11 (b) Subdivision (a) of this section does not apply to any
12 misdemeanor that is within the provisions of subdivision
13 (b) of Section 42001 of the Vehicle Code, to any violation
14 of subdivision (c) of Section 286, Section 288, subdivision
15 (c) of Section 288a, Section 288.5, or subdivision (j) of
16 Section 289, *any felony conviction pursuant to* subdivision
17 (d) of Section 261.5, or to any infraction.

18 (c) A person who petitions for a change of plea or
19 setting aside of a verdict under this section may be
20 required to reimburse the county for the actual cost of
21 services rendered, whether or not the petition is granted
22 and the records are sealed or expunged, at a rate to be
23 determined by the county board of supervisors not to
24 exceed one hundred twenty dollars (\$120), and to
25 reimburse any city for the actual cost of services
26 rendered, whether or not the petition is granted and the
27 records are sealed or expunged, at a rate to be
28 determined by the city council not to exceed one
29 hundred twenty dollars (\$120). Ability to make this
30 reimbursement shall be determined by the court using
31 the standards set forth in paragraph (2) of subdivision (g)
32 of Section 987.8 and shall not be a prerequisite to a
33 person's eligibility under this section. The court may
34 order reimbursement in any case in which the petitioner
35 appears to have the ability to pay, without undue
36 hardship, all or any portion of the cost for services
37 established pursuant to this subdivision.

38 (d) No relief shall be granted under this section unless
39 the prosecuting attorney has been given 15 days' notice
40 of the petition for relief. The probation officer shall notify



1 the prosecuting attorney when a petition is filed,
2 pursuant to this section.

3 It shall be presumed that the prosecuting attorney has
4 received notice if proof of service is filed with the court.

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

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

