

ASSEMBLY BILL

No. 702

Introduced by Assembly Member Swanson

February 17, 2011

An act to add Section 1203.47 to the Penal Code, relating to prostitution.

LEGISLATIVE COUNSEL'S DIGEST

AB 702, as introduced, Swanson. Prostitution: human trafficking: expungement.

Under existing law, after a person has reached 18 years of age, the person may petition a court to seal all records relating to the person's case in the custody of a juvenile court if he or she has not been subsequently convicted of a felony or misdemeanor involving moral turpitude, and if rehabilitation has been attained to the satisfaction of the court. Under existing law, a person may have a conviction for a misdemeanor set aside if the court, in its discretion and the interests of justice, determines that a defendant should be granted relief, provided that the petitioner is not then serving a sentence for any other offense, is not on probation for another offense, and is not being charged with any other offense.

This bill would provide that a person who was adjudicated a ward of the court for the commission of a violation of specified provisions prohibiting prostitution may petition a court to have his or her records sealed as pertains to the prostitution offenses without showing that he or she has not been subsequently convicted of a felony or misdemeanor involving moral turpitude, or that rehabilitation has been attained, as provided.

The bill would provide that a person who was 18 years of age or older, or who was under 18 years of age but was tried as an adult, at the time of a commission of a violation of specified provisions prohibiting prostitution may petition a court to allow the petitioner to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty, or to have the court set aside the verdict. The bill would require the court to grant the petition if the petitioner has made a satisfactory showing that the violation was a result of the petitioner having been a victim of human trafficking. The bill would provide that the relief provided by the bill would not apply to a person who paid money, or attempted to pay money, to any person for the purposes of prostitution, as specified.

The bill would provide that these provisions apply to convictions and adjudications that occurred before and after the effective date of the bill.

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 1203.47 is added to the Penal Code, to
2 read:

3 1203.47. (a) A person who was found to be a person described
4 in Section 602 of the Welfare and Institutions Code by reason of
5 the commission of an offense described in subdivision (b) of
6 Section 647 or in Section 653.22 may, upon reaching 18 years of
7 age, petition the court to have his or her record sealed, as provided
8 in Section 781 of the Welfare and Institutions Code, except that,
9 as pertaining to any records regarding the commission of an offense
10 described in subdivision (b) of Section 647 or in Section 653.22,
11 it shall not be a requirement in granting the petition for the person
12 to show that he or she has not been convicted of a felony or of any
13 misdemeanor involving moral turpitude, or that rehabilitation has
14 been attained to the satisfaction of the court. Upon granting the
15 petition, all records relating to the violation or violations of
16 subdivision (b) of Section 647 or of Section 653.22, or both, shall
17 be sealed pursuant to Section 781 of the Welfare and Institutions
18 Code.

19 (b) A person who was 18 years of age or older at the time of a
20 commission of a violation of subdivision (b) of Section 647, or of

1 Section 653.22, or a person who was under 18 years of age but
2 was tried as an adult, may petition a court to withdraw his or her
3 plea of guilty or plea of nolo contendere and enter a plea of not
4 guilty, or if he or she has been convicted after a plea of not guilty,
5 to petition the court to set aside the verdict of guilty. The court
6 shall grant the petition if, in the discretion of the court, the
7 petitioner has made a satisfactory showing that the violation was
8 a result of the petitioner having been a victim of human trafficking.
9 The conviction of another person pursuant to Section 236.1 in
10 relation to the petitioner's conviction under subdivision (b) of
11 Section 647, or of Section 653.22 shall be strongly considered as
12 evidence that the petitioner was a victim of human trafficking. If
13 the petition is granted pursuant to this subdivision, the court shall
14 dismiss the accusations or information against the petitioner, or
15 set aside the verdict of guilty, and the petitioner will thereafter be
16 released from all penalties and disabilities resulting from the
17 offense.

18 (c) The relief provided by this section does not apply to a person
19 convicted pursuant to subdivision (b) of Section 647 or of Section
20 653.22 who paid money or any other valuable thing, or attempted
21 to pay money or any other valuable thing, to any person for the
22 purpose of prostitution as defined in subdivision (b) of Section
23 647.

24 (d) This section applies to convictions and adjudications that
25 occurred before, as well as those that occur after, the effective date
26 of this section.