



JUDICIAL COUNCIL OF CALIFORNIA

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September 8, 2022

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

Subject: Senate Bill 1209 (Eggman) – Request for Signature

Dear Governor Newsom:

The Judicial Council respectfully requests your signature on SB 1209, which allows a defendant suffering from military related trauma (sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems) to petition for recall of sentence and resentencing, as specified, without regard to whether the defendant was sentenced prior to January 1, 2015.

The Judicial Council supports SB 1209 because the council believes that including the January 1, 2015 date in the eligibility criteria inadvertently excluded some veterans who otherwise meet the eligibility criteria. Thus, the council believes that SB 1209 appropriately clarifies that defendants who are currently serving a felony sentence who otherwise meet the eligibility requirements may petition for relief as called for in recent appellate court decisions.

In 2020, the Fourth District Court of Appeal considered an appeal to the denial of a petition for recall and resentencing pursuant to Penal Code section 1170.91(b) on the basis that the defendant was sentenced prior to January 1, 2015 ([People v. Valliant](#), 55 Cal.App.5th 903). On appeal Mr. Valliant argued, among other things, that subdivision (b)(1)(B) extends resentencing relief to all veterans whose military related trauma was not considered at their initial sentencing, without regard to when that sentencing took place. The court denied the appeal holding, among other things, that section 1170.91, subdivision (b) (1)(B) unambiguously authorizes resentencing relief

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only for persons who were sentenced before January 1, 2015, and thus did not apply to the defendant who was sentenced in March of 2015. The court also stated: “In closing, we wonder if the Legislature foresaw this result when it passed section 1170.91. While Valliant's position here may be unusual, we doubt it is unique. With that thought in mind, we invite the Legislature to revisit this issue and, if it believes it is appropriate to do so, to provide Valliant and any other veteran in a similar position, with statutory relief.”

The defendant appealed the ruling and, while the Supreme Court denied review, in a concurring statement in *People v. Valliant* (S265734), Justice Goodwin Liu also called for renewed legislative attention on this issue agreeing with the Court of Appeal that it is unlikely the Legislature specifically intended the result. Justice Liu pointed to the current science that recognizes post-traumatic stress disorder can take time to fully manifest—particularly for veterans—and noted that backlogs at the U.S. Department of Veterans Affairs are often a barrier to veterans establishing a service-connected condition or disability. Justice Liu also noted that it is “undisputed that Valliant’s military-related conditions—PTSD and opioid abuse disorder—were not considered during his sentencing in 2015. In fact, it was not until 2017 that the United States Department of Veterans Affairs (VA) verified that his conditions stemmed from his military service. Thus, Valliant is in the unfortunate position of not having had his military-related conditions considered at his initial sentencing while also being ineligible for resentencing pursuant to section 1170.91, subdivision (b).”

For these reasons, the Judicial Council requests your signature on SB 1209.

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

Sincerely,



Cory T. Jaspersen
Director, Governmental Affairs

CTJ/SR/Imm

cc: Hon. Susan Talamantes Eggman, Member of the Senate, 5th District
Ms. Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California