



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 22, 2018

Hon. Rob Bonta
Member of the Assembly
State Capitol, Room 2148
Sacramento, California 95814

Subject: Assembly Bill 1793 (Bonta), as amended May 25, 2018 – Oppose, unless amended and funded

Dear Assembly Member Bonta:

The Judicial Council regrettably opposes, AB 1793, which establishes an “automatic” process for individuals who are eligible for relief under the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) enacted by the voters at the November 8, 2016 general election in lieu of the petition process required by Proposition 64. The Judicial Council is opposed to AB 1793 unless funded and amended to provide courts with: (1) five years from the date of receipt of information from the prosecution about individuals eligible for that relief to process sentence modifications; and (2) that for each case, the prosecution provide the courts with the defendant’s name, the case disposition, each charge reported and the offense level, which court handled the case, and, if available, the arrest date.

The Judicial Council is concerned that AB 1793 would require the courts to complete processing of sentence modifications by July 1, 2020. The legislation states “If the prosecution does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court shall reduce or dismiss the conviction pursuant to Section 11361.8.” While the council has been informed that AB 1793 is not intended to place a date on courts by which courts

must process the sentence modifications, the council is concerned that the language is ambiguous and could lead to litigation. Thus, the council requests that AB 1793 be amended to provide courts with five years from the date of receipt of information from the prosecution about individuals eligible for that relief to process sentence modifications. Also, to facilitate the timely processing of sentence modifications for eligible individuals, the council is requesting that the bill be amended to require the prosecution, for each eligible individual, to provide the court, with the defendant’s name, the case disposition, each charge reported and the offense level, which court handled the case, and, if available, the arrest date.

In addition, the council is concerned about the significant new burdens AB 1793 would impose on courts and for that reason is opposed to the bill unless funded. The Department of Justice (DOJ) has estimated that there are approximately 220,000 cannabis cases statewide that are eligible for sentence modifications as proposed by AB 1793. Based on that information, the council estimates court workload costs would be between \$5.2 million and \$25.0 million to comply with this bill’s provisions. In addition, the council notes that several factors influence these workload estimates, such as capabilities of each court’s case management systems, court staffing levels and potential objections from the prosecution. Further, the council notes that cases where the prosecution objects to sentence modifications carry the highest workload costs, as these cases require additional judicial review. Since it is difficult to produce an accurate estimate of the frequency with which prosecutors will object to sentence modifications given the number of variables that could influence their decision. The council made a conservative assumption that prosecutors would not object to sentence modifications in 95 percent of the 220,000 cannabis cases. Table 1 provides a summary of our calculations of the range of workload costs related to sentence modifications in cannabis cases.

Table 1: Cannabis Sentence Modification Case Workload Cost Estimate

Sentence Modification Case Type	Cases	Workload Cost Range	
		Low	High
Unchallenged Review <i>95% of DOJ Cases</i>	209,000	\$4,389,000	\$22,363,000
Prosecution Objects <i>5% of DOJ Cases</i>	11,000	825,000	2,662,000
Totals	220,000	\$5,214,000	\$25,025,000

Finally, the council is concerned that requiring courts to establish the “automatic” process contemplated by AB 1793 will put further burdens on criminal courts that are already tasked with implementing recently enacted unfunded legislative mandates and new requirements placed on courts by initiative measures passed in the November 2016 General Election. In that regard, the council notes that individuals eligible for relief under Proposition 64 may already petition the

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courts for relief under Proposition 64. Given the pressures placed on courts by ongoing criminal justice reform legislation and initiative measures, the council is concerned that AB 1793 places additional unnecessary burdens on courts because Proposition 64 already provides an avenue for relief through the petition process.

For these reasons, the Judicial Council regrettably opposes, AB 1793, unless amended and funded.

Sincerely,

Mailed on August 23, 2018

Sharon Reilly
Attorney

SR/yc-s

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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August 31, 2018

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: Assembly Bill 1793 (Bonta) – Request for Veto

Dear Governor Brown:

The Judicial Council respectfully requests your veto on Assembly Bill 1793, which establishes an “automatic” process for individuals who are eligible for relief under the Control, Regulate, and Tax Adult Use of Marijuana Act (Proposition 64) enacted by the voters at the November 8, 2016 general election in lieu of the petition process required by Proposition 64. The Judicial Council is opposed to AB 1793 unless funded and amended to provide courts with: (1) five years from the date of receipt of information from the prosecution about individuals eligible for that relief to process sentence modifications; and (2) that for each case, the prosecution provide the courts with the defendant’s name, the case disposition, each charge reported and the offense level, which court handled the case, and, if available, the arrest date.

The Judicial Council is concerned that AB 1793 would require the courts to complete processing of sentence modifications by July 1, 2020. The legislation states “If the prosecution does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court shall reduce or dismiss the conviction pursuant to Section 11361.8.” While the council has been informed that AB 1793 is not intended to place a date on courts by which courts must process the sentence modifications, the council is concerned that the language is ambiguous

and could lead to litigation. Thus, the council requests that AB 1793 be amended to provide courts with five years from the date of receipt of information from the prosecution about individuals eligible for that relief to process sentence modifications. Also, to facilitate the timely processing of sentence modifications for eligible individuals, the council is requesting that the bill be amended to require the prosecution, for each eligible individual, to provide the court, with the defendant's name, the case disposition, each charge reported and the offense level, which court handled the case, and, if available, the arrest date.

In addition, the council is concerned about the significant new burdens AB 1793 would impose on courts and for that reason is opposed to the bill unless funded. The Department of Justice (DOJ) has estimated that there are approximately 220,000 cannabis cases statewide that are eligible for sentence modifications as proposed by AB 1793. Based on that information, the council estimates court workload costs would be between \$5.2 million and \$25.0 million to comply with this bill's provisions. In addition, the council notes that several factors influence these workload estimates, such as capabilities of each court's case management systems, court staffing levels and potential objections from the prosecution. Further, the council notes that cases where the prosecution objects to sentence modifications carry the highest workload costs, as these cases require additional judicial review. Since it is difficult to produce an accurate estimate of the frequency with which prosecutors will object to sentence modifications given the number of variables that could influence their decision. The council made a conservative assumption that prosecutors would not object to sentence modifications in 95 percent of the 220,000 cannabis cases. Table 1 provides a summary of our calculations of the range of workload costs related to sentence modifications in cannabis cases.

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reform legislation and initiative measures, the council is concerned that AB 1793 places additional unnecessary burdens on courts because individuals already have an avenue for relief through the existing petition process.

For these reasons, the Judicial Council requests your veto on AB 1793.

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

Sincerely,

Mailed on August 31, 2018

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/SR/yc-s

cc: Hon. Rob Bonta, Member of the Assembly
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California