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Unpaid Restitution No Longer Barrier to Post-Conviction Petition Relief or Out-of-State Parole **SB 1106**

Adds Pen. Code §1210.6; Amends Pen. Code §§17, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42 & 1203.45; Repeals Pen. Code §11177.2

The purpose of Senate Bill (SB) 1106 is to stop judges from using any unpaid restitution or restitution fine to deny specific post-conviction petitioned record relief. Additionally, unpaid restitution can no longer be grounds to deny someone parole release to another state. This law takes effect January 1, 2023. Nothing about this bill waives or reduces restitution or restitution fines owed, but rather only removes unpaid restitution as a barrier to petitioned record relief.

This document does not constitute legal advice and is general information.

What is Restitution?

A judge will order anyone convicted of a crime to pay a restitution fine, as well as make restitution payments to a victim who suffered a financial loss due to the harm caused by the crime. A **restitution fine** is a specific amount of money set by law, depending on the crime. **Restitution payments to a victim** can be for any amount of money needed to repay them for their loss or injury. For example, a person convicted of vandalism can be ordered to pay for the cost of repairing the damaged property. If a person is convicted of an assault or battery type crime, they can be required to pay for any medical bills for the victim. In some circumstances, survivors of crime require counseling or therapy, and these costs can also be restitution.

When a judge is setting the amount (cost) of restitution that must be paid to a victim, the judge does not take into consideration whether the person convicted of the crime has an ability to actually pay this amount.

A restitution order is enforceable by the victim as a civil judgment and can be enforced in the same manner provided for any other money judgment.¹

¹Penal Code §§1202.4(i) & 1214

What Post-Conviction Petitioned Record Relief is Included?

Anyone who petitions the court and is eligible for any of the following forms of relief, but they have an unpaid restitution or restitution fine, will benefit from the change in the law:

Pen. Code §1203.4a(a) &(b)	Record relief for misdemeanor convictions without probation or <u>infraction convictions</u>	<i>Form CR-180</i>
Pen. Code §1203.4(a) &(b)	Record relief for misdemeanor or felony convictions where probation was <u>granted and successfully completed</u>	<i>Form CR-180</i>
Pen. Code §1203.41 (The law before 1/1/2023)	Record relief for felony convictions where time was served in county jail or <u>on mandatory supervision</u>	<i>Form CR-180</i>
Pen. Code §1203.41 (The expanded law after 1/1/2023)	Record relief for felony convictions where time was served in county jail, on mandatory supervision, or in state prison	<i>Form CR-180 will be updated to add language for state prison sentences</i>
Pen. Code §1203.42	Record relief for felony convictions where, if committed after 2011, time <u>would have been served in county jail</u>	<i>Form CR-180</i>
Pen. Code §1203.4b	Record relief for convictions with successful participating in the California <u>Conservation Camp program</u>	<i>Form CR-430</i>
Pen. Code §17	Conviction reduction relief that reduces a misdemeanor to an infraction, or a felony to a misdemeanor	<i>Form CR-180</i>

So long as an individual meets all the requirements of any of the petitions above, failure to pay off restitution will **not** be a basis to deny relief. Each of these petitions have specific requirements, not contained in this reference sheet, and should be reviewed carefully.

Out-of-State Parole

Under current law, a person who wants to Parole to another state can do so as long as certain conditions are met.² However, a person could not be released to another state if restitution or a restitution fine was still owe (unpaid).³ Beginning January 1, 2023, unpaid restitution can no longer be a barrier to out-of-state Parole. This law has been repealed (removed).

² Pen. Code §11177.

³ Pen. Code §11177.2.