



Superior Court of California County of Orange

PUBLIC NOTICE

FOR IMMEDIATE RELEASE

DATE: JANUARY 5, 2017

Implementation of Prop 57, AB813, SB1242, SB823

The purpose of this notice is to provide information regarding the implementation of new legislation and the processes identified to address these changes. This summary is not inclusive of all the legislative changes for 2017 and only focuses on Prop 57, AB813, SB1242, and SB823.

Proposition 57

Proposition 57 as passed by the voters modifies Welfare and Institution Code 602 by deleting subsection (b) which states that a juvenile offender alleged to commit specific offenses shall be prosecuted in adult court.

For pending cases as of November 9, 2016, the Court will be utilizing the existing motion process to hear requests for transfers to juvenile court for a WIC 707 hearing brought forth by the defense. The motion will be filed at the justice center where the existing felony case is being heard.

The [Confidential Order For Certification or Removal of Defendant/Youth to Juvenile Court for WIC 707 Transfer Hearing](#) has been developed to facilitate the transfer process for these hearings. Hearings will be set in Department L-41 at the Lamoreaux Justice Center.

The order will be given to Defense Counsel to fill out the "Mandatory Information" section. This information will be utilized by Juvenile Court to facilitate the transfer and send proper notice to impacted parties. Once the order is completed, the order and other necessary documents will be distributed to Juvenile Court, Probation, District Attorney and Defense Counsel. After notice is made to the parties, the order will be sealed.

- **Certification** pursuant to Welfare and Institutions Code Section 604 suspends proceedings and certifies the case to Juvenile Court effective the date of the order. If the case is returned to the Superior Court after the WIC 707 hearing, the District Attorney will file an amended complaint in the Superior Court to reinstate criminal proceedings.
- **Removal** orders the defendant removed from criminal jurisdiction of the Superior Court to the Juvenile Court. If the case does not remain in Juvenile Court after the hearing, the case will be calendared back to the Superior Court to continue proceedings.
- **New Filings** in Juvenile Court will follow existing protocols for the WIC 707 hearing. If after the hearing the case is ordered transferred to the Superior Court, the District Attorney will file the new complaint in the Superior Court. The complaint will contain information stating that the WIC 707 hearing was heard in the Juvenile Court.

Assembly Bill 813

Assembly Bill 813 adds Penal Code Section 1473.7 which creates an explicit right for a person no longer imprisoned or restrained to prosecute a motion to vacate a conviction or sentence based on a prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere, or based on newly discovered evidence of actual innocence, as specified.

The Court will utilize the existing motion process to hear requests to vacate a conviction brought forth by the defense. The process will be as follows:

- Motions should be filed at the justice center where the case resides with proper notice to the prosecutor
- Motion will be calendared for a court hearing following existing calendar guidelines

Senate Bill 1242

Senate Bill 1242 modifies Penal Code Section 18.5 to provide that a person sentenced to a term of one year in county jail prior to January 1, 2015, may submit an application before the trial court that entered the conviction and sentence to have the sentence modified to the maximum of 364 days.

The Court will be utilizing the [Petition for Modification of Sentence](#) form to submit the request to modify the sentence brought forth by the defense. The process will be as follows:

- Petition should be filed at the justice center where the case resides with proper notice to the prosecutor
- Petition will be held for 30 calendar days to allow response from the prosecutor
 - If opposition from the prosecutor is received, the case will be calendared for a court hearing per existing calendaring guidelines
 - If no opposition from the prosecutor is received, on the 31st day, the petition will be submitted to the courtroom to be processed as chambers work
- If immediate relief is needed, the petition can expedited and calendared for a court hearing upon filing of the petition in accordance with existing calendaring guidelines

Senate Bill 823

Senate Bill 823 adds Penal Code Section 236.14 which allows an individual arrested for or convicted of a nonviolent crime while he or she was a human trafficking victim, to apply to the court to vacate the conviction at any time after it was entered.

The Court will be utilizing the existing motion process to hear requests to vacate the conviction brought forth by the defense. The process will be as follows:

- Petition should be filed at the justice center where the case resides with proper notice to the prosecutor

- A court hearing will be set 60 calendar days out, the prosecutor has 45 days to respond to the motion
- If the defendant is in custody on an active sentence, the defense can request an expedited hearing and file the motion along with a removal order

For further details or questions, please contact:

Albert De La Isla
Principal Analyst
adelaisla@occourts.org
657-622-5919