
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 703 **Hearing Date:** July 3, 2019
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Version: March 26, 2019
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Public postsecondary education: fee waivers for exonerated persons.

SUMMARY

This bill prohibits the University of California (UC), the California State University (CSU) and the California Community Colleges (CCC) from collecting mandatory systemwide fees or tuition to exonerated persons, as defined.

BACKGROUND

Existing law:

- 1) Requires the California Department of Corrections and Rehabilitation to assist a person exonerated as to a conviction for which they are serving a state prison sentence at the time of exonerated with the following:
 - a) Transitional housing assistance, job training, and mental health services, as applicable.
 - b) Enrollment in the Medi-Cal program.
 - c) Enrollment in Cal Fresh.
 - d) Referral to the Employment Development Department and applicable regional planning units for workforce services.
 - e) Enrollment in the federal and state supplemental security income programs (SSI/SSP).
- 2) Provides a payment of \$1,000 to an exonerated person upon their release from prison.
- 3) Defines "exonerated", for purposes of the above and for purposes of this bill, to mean the person has been convicted and one of the following subsequently occur:
 - a) A writ of habeas corpus concerning the person was granted on the basis that the evidence unerringly points to innocence, or the person's conviction was reversed on appeal on the basis of insufficient evidence;
 - b) A writ of habeas corpus concerning the person was granted, either resulting in dismissal of the criminal charges for which he or she was

incarcerated or following a determination that the person is entitled to release on his or her own recognizance, or to bail, pending a decision by a prosecutor regarding retrial or appeal; or

- c) The person was given an absolute pardon by the Governor on the basis that the person was innocent. (Penal Code (PC) § 3007.05.)
- 4) States that any person who, having been convicted of any felony and imprisoned in the state prison or county jail for that conviction, is granted a pardon by the Governor for the reason he or she was innocent of the crime with which he or she was convicted, is eligible to present a claim against the state to the Victims Compensation Board for the monetary injury sustained by him or her through the erroneous conviction and imprisonment. (PC § 4900.)
- 5) Gives erroneously convicted individuals two years to file a claim against the state. (PC Sect. 4901.)
- 6) Sets the rate of compensation at \$140 per day of incarceration served subsequent to the claimant's conviction, and specifies that this appropriation shall not be considered gross income for state tax purposes. (PC § 4904.)
- 7) Provides that no mandatory systemwide fees be required by the UC Regents, the Board of Directors of Hastings College of Law, the CSU Trustees, or the Board of Governors of the CCC from any surviving spouse or child, of a deceased person, who met all of the following requirements:
 - a) He or she was a resident of this state;
 - b) He or she was employed by a state or local public agency, or was a contractor, or an employee of a contractor, performing services for a public agency, or was a firefighter employed by the federal government whose duty assignment involved performing firefighting services in California;
 - c) His or her principal duties consisted of active law enforcement service or active fire suppression and prevention; and,
 - d) He or she was killed in the performance of active law enforcement or active fire suppression and prevention duties, died as a result of an accident or an injury caused by external violence or physical force during the performing those duties, or died as a result of an industrial injury or illness arising out of and in the course of performing those duties. (Education Code (EC) § 68120.)
- 8) Provides that no mandatory systemwide fees be required by the UC Regents, the CSU Trustees, or the Board of Governors of the CCC from any of the following: (EC § 66025.3 and 76300.)
 - a) The dependent of any California resident killed in the September 11, 2001 terrorist attacks;

- b) The dependent of a veteran killed or permanently disabled in the line of duty, as specified; and
- c) Current and former foster youth, as specified.

ANALYSIS

This bill prohibits mandatory systemwide fees or tuition of any kind from being required or collected by the Regents of the UC, the Trustees of the CSU, the Board of Governors of the CCC, or any community college district from a student who has been exonerated, as defined in the penal code.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, when someone is wrongfully convicted for a crime they did not commit there are countless adverse impacts, including the loss of years or decades of their life that could have been spent pursuing higher education, training and job experience. As a result, of their wrongful imprisonment, the majority of exonerees are financially dependent on others upon release. The author believes that access to an education would provide exonerated individuals with resources and access to better-paying jobs to create a path to financial independence. AB 703 would help in this regard by waiving systemwide tuition and fees for exonerated students at California's public postsecondary institutions.
- 2) ***How many?*** According to the National Registry of Exonerations' most recent report, dated April 9, 2019, since 1989, exonerations in California totaled 201, or less than seven per year on average. These exonerees lost a total of 1,692 years in prison, or an average of 8.4 years per exoneree. In 2018, there were six exonerations in California. As such, the bill's provisions would benefit a small number of students.
- 3) ***State claims for exonerated persons.*** According to information posted the California Victim Compensation Board website, Current law requires that the Victim Compensation Board process claims of persons who claim to be erroneously convicted of felonies. The Erroneously Convicted Person statutes originated in 1913. Prior to 2000, compensation was capped at \$10,000. In 2000, the law was amended to allow compensation of \$100 for each day served in prison after the conviction with no maximum amount. In 2016, the law was amended to change the compensation rate to \$140 per day for each day of incarceration served (\$51,110 per year), including pre-conviction time spent in custody.

Unlike the burden of proof for criminal cases, where the prosecutor must prove that a defendant is guilty beyond a reasonable doubt, a claimant who applies for compensation must prove, by a preponderance of the evidence, that he or she did not commit the crime that resulted in his or her incarceration and that he or she did not contribute to the arrest or conviction.

The California Victims Compensation Board recommends to the Legislature an appropriation of \$140 per day (\$51,110 per year) of incarceration served in a state prison, subsequent to the claimant's exoneration. This year's claims appropriations bill AB 1830 (Gonzalez, 2019), pending on the Senate floor, is an urgency measure proposing appropriations totaling \$2.3 million for four exonerees whose claims have been approved by the board.

4) ***Expansion of tuition waiver grantees.*** As noted in the background of this analysis, current law prohibits public postsecondary institutions from applying certain fees to various groups impacted by a tragic event, these waivers include:

- A surviving spouse or child of a deceased person of active law enforcement service.
- A surviving spouse or child of a deceased person of active fire suppression and prevention.
- The dependent of any California resident killed in the September 11, 2001 terrorist attacks.
- The dependent of veteran killed or permanently disabled in the line of duty, as specified.
- Current and former foster youth.

Staff notes the bill's provisions are anticipated to impact a small number of people, within the entire population of students, therefore, in isolation its impact to each segment is expected to be minimal. However, this bill expands overall the number and category of individuals eligible for a tuition waiver at a public higher education institution. It is likely that future legislation prohibiting public colleges and universities from charging tuition to other groups of students will follow suit. Tuition costs are a barrier for many individuals with financial hardship, while providing free college for exonerees may be reasonable, the committee may wish to consider the broader policy implications of establishing numerous waiver programs and whether group by group tuition exemptions is an appropriate remedy or whether a comprehensive solution is warranted such as one that is based on an individual's ability to pay.

5) ***Parity with recent waiver grantees?*** A student qualifies for the exemption proposed in this bill if they have been exonerated from a conviction for which they are serving a state prison sentence. There are no other requirements for eligibility. Current law, established by SB 967 (Berryhill, Chapter 688, Statutes of 2018), prohibits the UC and the CSU from charging mandatory tuition and fees to current and former foster youth. Unlike this bill, it additionally requires an eligible current and former foster youth to complete and submit the Free Application for Federal Student Aid (FAFSA), maintain a minimum grade point average, be in good standing and meet the financial need requirements established for Cal Grant A awards. Further, current law specifies that the amount of a student's tuition waived be reduced by other gift aid received by the student and limited the

waiver the equivalent of attendance in a four-year undergraduate program. These provisions ensure that a student maximizes their ability to access other state and federal aid programs, as well as provide parameters that parallel other publically supported need-based financial aid programs for students.

As such and for purposes of implementing tuition exemption policies that are consistent for beneficiaries of those programs, **staff recommends that the bill be amended** mirror in part applicable eligibility requirements and standards established for waivers granted to current and former foster youth as follows:

69000. (a)(1) No mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, or any community college district from a student who has been exonerated, as that term is defined in Section 3007.05 of the Penal Code, *if the student meets all of the following conditions:*

(A) Completes and submits the Free Application for Federal Student Aid (FAFSA).

(B) Meets the financial need requirements established for Cal Grant A awards under Chapter 1.7 (commencing with Section 69430) of Part 42.

(2) A student shall not have his or her mandatory systemwide tuition or fees waived pursuant to this subdivision in excess of the equivalent of six years of full-time attendance undergraduate program.

(b) A person who is eligible for a waiver of tuition or fees under this section may receive a waiver for each academic year during which he or she applies for that waiver, but an eligible person may not receive a waiver of tuition or fees for a prior academic year.

(c) The waiver of tuition or fees under this section shall apply only to a person who is determined to be a resident of California pursuant to Chapter 1 (commencing with Section 68000) of Part 41.

- 6) **Related legislation.** AB 1090 (Medina, 2019) Expands an existing exemption from mandatory systemwide tuition and fees at the UC, the Hastings College of Law, the CSU, and the CCC for an eligible survivor of active duty law enforcement or firefighters who died in the line of duty to also exempt these eligible survivors from mandatory campus-based fees.

SUPPORT

American Civil Liberties Union of California
California Attorneys for Criminal Justice
Exonerated Nation

OPPOSITION

None received

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