



PRISON LAW OFFICE
General Delivery, San Quentin, CA 94964
Telephone (510) 280-2621 • Fax (510) 280-2704
www.prisonlaw.com

Director:
Donald Specter

Managing Attorney:
Sara Norman

Staff Attorneys:
Staff Attorneys:
Rana Anabtawi
Laura Bixby
Patrick Booth
Steven Fama
Alison Hardy
Sophie Hart
Jacob Hutt
Rita Lomio
Margot Mendelson

Es Su Responsabilidad Si Usa La Información Proporcionada a Continuación:

Al momento de preparar este material, hicimos nuestro mejor esfuerzo por proporcionarle a usted información útil y precisa porque nosotros sabemos que las personas que se encuentran internas en la prisión con frecuencia tienen problemas para conseguir información legal y no podemos darle un consejo específico a todas las personas que se encuentran internas en la prisión y que la solicitan. Como usted debe saber, las leyes cambian con frecuencia y pueden ser consideradas de diferentes maneras. Nosotros no siempre tenemos los recursos para hacer los ajustes necesarios a este material cada vez que la ley cambia. Si usted usa este folleto es su responsabilidad asegurarse de que la ley no haya cambiado y que aún aplique a su situación particular. La mayoría de los materiales que usted necesita deben estar disponibles en la biblioteca de leyes de su instalación.

Nuevas Leyes sobre Asesinato – Proyecto de Ley del Senado 1437 y Proyecto de Ley del Senado 775
(también aplicable a algunas condenas por homicidio involuntario e intento de asesinato)

(actualizado en noviembre del 2021)

Enviamos esta información en respuesta a su solicitud de información con relación a los cambios recientes en las leyes de California con respecto a las condenas por asesinato, homicidio involuntario e intento de asesinato. Desafortunadamente, no podemos proporcionarle respuestas a todos los que se comunican con nosotros. Esperamos que esta carta le ayude a responder sus preguntas.

A partir del 1 de enero del 2019, el Proyecto de Ley del Senado 1437 cambió las leyes sobre cuándo una persona puede ser condenada por asesinato cuando no mata o no actúa con “malicia”. El Proyecto de Ley del Senado 1437 también proporcionó una forma para que las personas que habían sido condenadas por asesinato bajo las leyes antiguas solicitaran ser nuevamente sentenciadas por cargos menores de acuerdo con las nuevas leyes. A partir del 1 de enero del 2022, el Proyecto de Ley del Senado 775 amplía la disposición de la nueva sentencia para incluir a algunas personas condenadas por homicidio involuntario o intento de asesinato. El Proyecto de Ley del Senado 775 también aclara los derechos procesales de las personas que solicitan una nueva sentencia y los estándares que los tribunales deben aplicar al decidir si se debe sentenciar nuevamente a alguien.

Las leyes sobre homicidio de California son muy complicadas y esta carta proporciona solamente una descripción general del Proyecto de Ley del Senado 1437 y del Proyecto del Ley del Senado 775. Si usted fue condenado por asesinato, intento de asesinato u homicidio involuntario y se

Board of Directors

Harlan Grossman, President and Treasurer • Christiane Hipps, Vice President
Vanita Gaonkar • Nick Gregoratos • Michael Marcum • Jean Lu
Claire McDonnell • Ruth Morgan • Seth Morris • Adrienne Yandell

pregunta si el Proyecto de Ley del Senado 1437 y el Proyecto de Ley del Senado 775 afectan su condena, usted debe comunicarse con el oficial del defensor público en el condado donde usted fue sentenciado, contactar con el abogado litigante penal y / o con su abogado de apelación penal para solicitar consejo o ayuda para presentar una petición de nueva sentencia. Si usted presentó anteriormente una petición sobre el Proyecto de Ley del Senado 1437 y le fue rechazado el remedio, usted debe comunicarse con la oficina del defensor público en el condado donde usted fue sentenciado y / o con su abogado de apelaciones penales para solicitar si puede presentar una nueva petición bajo el Proyecto de Ley del Senado 775.

I. ¿Qué Cambió en el Proyecto de Ley del Senado 1437?

Las leyes sobre asesinato de California son complejas. Por lo general, para condenar a alguien por asesinato, el fiscal debe probar que una persona mató a alguien con “malicia”. La malicia puede ser “expresa” (con la intención de matar) o “implícita” (cometer intencionalmente un acto peligroso con un desprecio consciente sobre la vida humana). Sin embargo, existen normas legales bajo las cuales una persona puede ser condenada por asesinato incluso si no mata personalmente a nadie y no actúa con malicia.

El Proyecto de Ley del Senado 1437 cambió la ley al limitar las circunstancias en la que una persona puede ser condenada por asesinato. Bajo el Proyecto de Ley del Senado 1437 no se puede presumir que una persona haya actuado con malicia solo porque participó en algún tipo de delito. (Código Penal § 188 (a)(3).) Específicamente:

- *El Proyecto de Ley del Senado 1437 prohíbe las condenas por el delito grave de asesinato en primer grado a menos que se demuestren los factores adicionales.* El “Delito grave de asesinato” es una regla legal por la cual una persona puede ser condenada de asesinato si comete o intenta cometer un delito grave peligroso y alguien termina siendo asesinado bajo la nueva ley, una persona que participa en un delito grave que resultó en una muerte puede ser condenada por asesinato en primer grado sólo si el fiscal prueba que la persona cometió uno de los delitos graves calificados y prueba que (1) la persona fue el homicida real; O (2) la persona tenía una intención de matar cuando ayudó e instigó, aconsejó, dirigió, indujo, pidió, solicitó o asistió al asesino real; O (3) la persona fue un “participante importante” en el delito grave y actuó con “indiferencia imprudente” sobre la vida humana; O (4) la víctima era un oficial pacífico comprometido en el desempeño de sus funciones. (Código Penal § 189(e)-(f).)
- *El Proyecto de Ley del Senado 1437 eliminó el delito grave creado judicialmente de asesinato en segundo grado, tanto para los asesinos reales como para los ayudantes / instigadores, a menos que el fiscal demuestre que la persona actuó con malicia.* (People v Gentile (2020) 10 Cal. 5º. 830, 846-847 [la nueva ley “permite una condena por asesinato en segundo grado sólo si la fiscalía puede probar que el acusado actuó bajo un estado mental de malicia premeditado”] también puede ver People v De Huff (2021) 63 Cal. App. 5º. 428, 437-438.)
- *El Proyecto de Ley del Senado 1437 prohibió las condenas por asesinato basada en consecuencias naturales y probables que ayudan e instigan.* Las “consecuencias naturales y probables que

ayudan o instigan” fueron una regala legal que solía permitir a una persona ser condenada de asesinato si la persona ayudó o instigó un delito que podía resultar razonable y previsiblemente en que alguien fuera asesinado y la persona a la que ayudaba o instigaba terminaba matando a alguien.

El Proyecto de ley 1437 también estableció un proceso para que las personas que habían sido condenadas bajo las leyes antiguas a solicitud sean nuevamente sentenciadas por delitos menores de acuerdo con las nuevas leyes. (Código Penal § 1170.95.)

II. ¿Qué cambió en el Proyecto de Ley del Senado 775?

El Proyecto de Ley del Senado 775, que entra en vigor el 1 de enero del 2022 realiza algunos cambios importantes a la disposición de la nueva sentencia del Código Penal § 1170.95. Estos cambios resuelven algunas de las disputas sobre cómo se aplicará y se llevará a cabo el Proyecto de Ley del Senado 1437. Específicamente, el Proyecto de Ley del Senado 775:

- Amplía la nueva sentencia para incluir a las personas que fueron condenadas por intento de asesinato u homicidio involuntario después de un juicio o que aceptaron una oferta de declaración de culpabilidad en lugar de enfrentar un juicio en el cual podrían haber sido condenadas por asesinato o intento de asesinato y que no podrían ser condenadas por asesinato o intento de asesinato, bajo la ley modificada por el Proyecto de Ley del Senado 1437.
- Aclara que la nueva sentencia se aplica a cualquier caso en el que la condena haya sido conforme a una “teoría bajo la cual se imputa la malicia”. Esto abre la cuestión de si una persona puede ser condenada por homicidio bajo la “doctrina del acto provocativo” cuando un tercero comete asesinato como consecuencia de un “acto provocativo” de una persona (por ejemplo, la participación en un tiroteo).
- Confirma que se debe designar a un abogado para que represente a una persona que presenta una petición que estable los criterios básicos para el remedio.
- Aclara que, en la audiencia de la nueva sentencia, el tribunal debe dar una nueva sentencia a una persona a menos que el tribunal encuentre que el fiscal ha probado más allá de una duda razonable todos los elementos que se requieren en la actualidad para el asesinato, intento de asesinato o para el homicidio involuntario.
- Aclara las reglas probatorias en una audiencia de nueva sentencia.

- Permite a las personas que aún tienen casos de apelación abiertos plantear problemas del Proyecto de Ley del Senado 1437 sobre la apelación directa, en lugar de tener que presentar peticiones de nueva sentencia.

III. ¿Cómo sé si mi condena está afectada por el Proyecto de Ley del Senado 1437 y/o el Proyecto de Ley del Senado 775? ¿Qué debo hacer si creo que mi condena se ve afectada?

Si usted fue condenado por asesinato, o intento de asesinato u homicidio involuntario antes de que el Proyecto de Ley del Senado 1437 entrara en vigencia el 1 de enero del 2019, tendrá que tomar medidas para solicitar una nueva sentencia bajo el Proyecto de Ley del Senado 1437 y el Proyecto del Ley del Senado 775. Dependiendo del estado de su caso, es posible que usted pueda impugnar su condena en una apelación o presentar una petición de nueva sentencia.

Puede ser muy difícil averiguar si usted fue condenado bajo una teoría de asesinato por delito grave o bajo una teoría por asistencia e instigación de causas naturales y probables que ahora está invalidada bajo el Proyecto de Ley del Senado 1437 y por el Proyecto de Ley del Senado 775. Si usted fue a juicio, las teorías legales que el fiscal de distrito utilizó en su caso habrán sido parte de las instrucciones que se dieron al jurado. Sin embargo, es posible que usted no tenga acceso a las instrucciones del jurado, que el tribunal haya dado al jurado sobre más de una teoría legal, y en cuestiones como si usted fue un “participante importante” en el delito grave subyacente podrían no haberse presentado nunca al jurado. Del mismo modo, si usted entró en un acuerdo de culpabilidad, la teoría legal y la base fáctica de su condena podrían no haberse establecido claramente.

Lo mejor que puede hacer es comunicarse con la oficina del defensor público en el condado donde usted fue condenado, contactar a su abogado litigante, y /o a su abogado de apelación penal para pedir asesoramiento sobre cómo le podrían afectar el Proyecto de Ley del Senado 1437 y el Proyecto de Ley del Senado 775 y qué debe hacer para proteger sus derechos. Dependiendo de sus situación, uno de sus abogados puede ayudarlo a plantear el problema en su apelación directa o para presentar una petición de nueva sentencia sobre su condena ante un tribunal.

Además, la Oficina del Defensor Público del Estado ha preparado un paquete de información sobre el Proyecto de Ley del Senado 775. El paquete está dirigido principalmente a las personas que fueron condenadas por asesinato. El paquete describe el proceso de petición y lo que sucede después de que alguien presenta una petición y una solicitud de información de contacto para todas las oficinas de defensores públicos y proyectos de apelación. Se adjunta una copia del paquete a esta carta.

Office of the State Public Defender

1111 Broadway, 10th Floor
Oakland, California 94607-4139
Telephone: (510) 267-3300 or (916) 322-2676



Senate Bill (SB) 775 Information

SB 775 allows certain people convicted of aiding and abetting attempted murder or manslaughter to get a sentence reduction.

The text of SB 775 and a form petition are attached. Please read both carefully. **If you believe you are eligible for relief, you can fill out the attached petition to ask the trial court to consider resentencing you.**

BACKGROUND

SB 1437 was passed in 2018. It changed the laws about who could be convicted as an aider and abettor in a murder case. It also created a process for people who had murder convictions under the old laws to ask the court to be resentenced on a less serious felony. Penal Code section 1170.95 describes the resentencing procedure. Many people who were convicted of murder as an aider and abettor under the prior law have already filed section 1170.95 petitions.

SB 775 is a new law that passed in 2021. It clarifies that certain people who were convicted of aiding and abetting an attempted murder (under the natural and probable consequences doctrine), and certain people who were charged with murder but convicted of manslaughter, can ask the court to be resentenced on a less serious felony.

WHO CAN PETITION TO BE RESENTENCED UNDER SB 775

Starting January 1, 2022, people who were convicted of aiding and abetting attempted murder (under the natural and probable consequences doctrine), and aiders and abettors charged with murder but convicted of manslaughter, can petition the court to have their convictions vacated and to be resentenced on a less serious felony.

Not everybody convicted of attempted murder or manslaughter is eligible to be resentenced.

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

AIDING AND ABETTING AND NATURAL AND PROBABLE CONSEQUENCES

According to the law, someone aids and abets a crime if he or she knows of the perpetrator's unlawful purpose and he or she specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the perpetrator's commission of that crime.

For example, in a murder case, an aider and abettor is a person who is not the actual killer but who helped the actual killer by knowing of the killer's plan to commit a fatal act, intending to help the killer commit the fatal act, and doing something to help the actual killer commit the fatal act. An aider and abettor can help an actual killer by doing things like encouraging him, providing him with weapons, or helping him plan the killing.

In attempted murder cases, an aider and abettor is someone who had the intent to kill like the person who attempted the murder.

The natural and probable consequences doctrine punishes crime when two or more people intend to commit a certain crime, but instead one of the participants commits a different or additional crime.

Under the old law, a person could be convicted of attempted murder even though he did not intend to kill but only intended to help the attempted murderer commit another crime. The natural and probable consequences doctrine allowed the aider and abettor in that situation to be convicted of the attempted murder because the other crime he intended to aid and abet could lead to the attempted murder.

Aiders and abettors who never had intent to kill but were convicted of attempted murder because of the natural and probable consequences doctrine may be eligible for SB 775 relief and should consider filing the attached petition

FILING THE PETITION

If you read through the statute and believe you are eligible, check the boxes and send the petition to the trial court in the county where you were convicted. The form allows you to ask for a lawyer to represent you in a resentencing proceeding. You are not required to use this form. If you use this form to file for relief you must: (1) send the original completed form to the court that sentenced you, (2) send a copy to the district attorney of the county that convicted you, (3) send a copy to the private attorney or the public defender who represented you, and (4) keep a copy for your records.

Attached are addresses for the public defenders across California. This may be helpful for the proof of service. If you no longer have the legal documents from your case with the address for the court or the district attorney in your case, you should check with the law library at your prison.

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

FREQUENTLY ASKED QUESTIONS

The following is not legal advice specific to your case. It is your responsibility to do legal research or contact a lawyer to determine if you are eligible to apply for relief.

Q: What happens after I file a petition?

A: Penal Code section 1170.95, included in the SB 775 language attached, lays out how courts are supposed to consider the petitions.

If you requested a lawyer, the court must appoint one for you. The district attorney will then be ordered to file a response brief within 60 days. After that, your attorney is allowed to file a reply brief in 30 days. These deadlines can be extended if the judge finds good cause. Sometimes it takes a while to find documents in old cases so don't be surprised if the deadlines are extended.

Once the briefing is complete, the judge should hold a hearing to decide if you made a *prima facie* showing that you are eligible for relief. If the judge finds you have made a *prima facie* showing that you may have been convicted under the outdated laws, the judge will issue an order to show cause. There will then be another hearing, 60 days after the order to show cause. At that hearing the prosecutor will have to prove beyond a reasonable doubt that you could still be found guilty of murder (in a manslaughter case) or attempted murder under today's law.

If the prosecutor cannot show beyond a reasonable doubt that you could still be found guilty, then you are entitled to be resentenced

If you are denied relief at the *prima facie* stage or at the resentencing phase you are allowed to file a notice of appeal on a standard felony notice of appeal form available in law libraries (CR-120). You must do so within 60 days of the denial.

Q: When should I file the petition? What if I don't file in January?

A: It is best to file the Penal Code section 1170.95 petition after January 1, 2022. If you file a petition before January 1, 2022, the court may wait to rule on the petition since the changes are not effective until January 1, 2022. The court may also reject the petition. If the petition is rejected because it was filed before January 1, be sure to refile it again after January 1, 2022.

There is no deadline to file a section 1170.95 petition, so you do not need to worry about missing a deadline to file the initial petition.

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

Q: If I filed a SB 1437 petition on my attempted murder or manslaughter conviction and my petition was denied in the trial court or the Court of Appeal, should I file again?

A: If you already filed a SB 1437 petition and have an appointed or paid attorney in the superior court, Court of Appeal, or the Supreme Court you should consult your attorney before filing a new petition.

If your original case is still being considered in the Court of Appeal or held in the Supreme Court, the trial court may not be able to consider your new petition.

If you previously filed a SB 1437 petition to reduce your attempted murder or manslaughter conviction and your petition was denied because the law did not apply to you at that time and your case is now final – meaning you have nothing pending in the Court of Appeal or the Supreme Court – you should file a new petition.

Q: Should I file a petition if I don't know whether I'm eligible?

A: You should not file a petition for resentencing unless you believe that you are eligible. The law requires that you provide a declaration to initiate resentencing under this law and a declaration requires your signature under penalty of perjury. However, if you read through the petition and think you are eligible you can file the declaration and request an attorney. An appointed attorney will look at your case and see if you are eligible for relief.

Senate Bill No. 775

CHAPTER 551

An act to amend Section 1170.95 of the Penal Code, relating to murder.

[Approved by Governor October 5, 2021. Filed with Secretary
of State October 5, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 775, Becker. Felony murder: resentencing.

Existing law authorizes a person who has been convicted of felony murder or murder under the natural and probable consequences theory to file a petition for the court to vacate the person's sentence and resentence them when specified conditions apply, including that the complaint, information, or indictment was filed against the petitioner that allowed the prosecution to proceed under a theory of felony murder or murder under the natural and probable consequences doctrine.

This bill would expand the authorization to allow a person who was convicted of murder under any theory under which malice is imputed to a person based solely on that person's participation in a crime, attempted murder under the natural and probable consequences doctrine, or who was convicted of manslaughter when the prosecution was allowed to proceed on a theory of felony murder or murder under the natural and probable consequences doctrine, to apply to have their sentence vacated and be resentenced if, among other things, the complaint, information, or indictment was filed to allow the prosecution to proceed under a theory of felony murder, murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, or attempted murder under the natural and probable consequences doctrine.

Existing law requires the court to review the petition and determine that the petitioner has made a prima facie showing that the petitioner falls within the resentencing provisions. Existing law requires the court to appoint counsel to represent the petitioner if the petitioner requests counsel. Existing law requires the court to issue an order to show cause if the petitioner has made a prima facie showing that they are entitled to relief.

This bill would require a court to hold a prima facie hearing to determine whether the petitioner has made a prima facie case for relief. The bill would require the court to appoint counsel, upon the petitioner's request, when receiving a petition in which the required information is set forth or readily ascertainable by the court. The bill would require a court that declines to make an order to show cause to provide a statement fully setting forth its reasons for doing so.

Existing law requires the court to hold a hearing to determine if the petitioner is entitled to relief under these provisions.

This bill would specify that a finding that there is substantial evidence to support a conviction for murder, attempted murder, or manslaughter is insufficient to prove, beyond a reasonable doubt, that the petitioner is ineligible for resentencing.

This bill would authorize a person convicted of murder, attempted murder, or manslaughter whose conviction is not final to challenge the validity of that conviction upon direct appeal.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that this legislation does all of the following:

(a) Clarifies that persons who were convicted of attempted murder or manslaughter under a theory of felony murder and the natural probable consequences doctrine are permitted the same relief as those persons convicted of murder under the same theories.

(b) Codifies the holdings of *People v. Lewis* (2021) 11 Cal.5th 952, 961-970, regarding petitioners' right to counsel and the standard for determining the existence of a prima facie case.

(c) Reaffirms that the proper burden of proof at a resentencing hearing under this section is proof beyond a reasonable doubt.

(d) Addresses what evidence a court may consider at a resentencing hearing (clarifying the discussion in *People v. Lewis*, supra, at pp. 970-972).

SEC. 2. Section 1170.95 of the Penal Code is amended to read:

1170.95. (a) A person convicted of felony murder or murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, attempted murder under the natural and probable consequences doctrine, or manslaughter may file a petition with the court that sentenced the petitioner to have the petitioner's murder, attempted murder, or manslaughter conviction vacated and to be resentenced on any remaining counts when all of the following conditions apply:

(1) A complaint, information, or indictment was filed against the petitioner that allowed the prosecution to proceed under a theory of felony murder, murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, or attempted murder under the natural and probable consequences doctrine.

(2) The petitioner was convicted of murder, attempted murder, or manslaughter following a trial or accepted a plea offer in lieu of a trial at which the petitioner could have been convicted of murder or attempted murder.

(3) The petitioner could not presently be convicted of murder or attempted murder because of changes to Section 188 or 189 made effective January 1, 2019.

(b) (1) The petition shall be filed with the court that sentenced the petitioner and served by the petitioner on the district attorney, or on the agency that prosecuted the petitioner, and on the attorney who represented the petitioner in the trial court or on the public defender of the county where the petitioner was convicted. If the judge that originally sentenced the petitioner is not available to resentence the petitioner, the presiding judge shall designate another judge to rule on the petition. The petition shall include all of the following:

(A) A declaration by the petitioner that the petitioner is eligible for relief under this section, based on all the requirements of subdivision (a).

(B) The superior court case number and year of the petitioner's conviction.

(C) Whether the petitioner requests the appointment of counsel.

(2) If any of the information required by this subdivision is missing from the petition and cannot be readily ascertained by the court, the court may deny the petition without prejudice to the filing of another petition and advise the petitioner that the matter cannot be considered without the missing information.

(3) Upon receiving a petition in which the information required by this subdivision is set forth or a petition where any missing information can readily be ascertained by the court, if the petitioner has requested counsel, the court shall appoint counsel to represent the petitioner.

(c) Within 60 days after service of a petition that meets the requirements set forth in subdivision (b), the prosecutor shall file and serve a response. The petitioner may file and serve a reply within 30 days after the prosecutor's response is served. These deadlines shall be extended for good cause. After the parties have had an opportunity to submit briefings, the court shall hold a hearing to determine whether the petitioner has made a prima facie case for relief. If the petitioner makes a prima facie showing that the petitioner is entitled to relief, the court shall issue an order to show cause. If the court declines to make an order to show cause, it shall provide a statement fully setting forth its reasons for doing so.

(d) (1) Within 60 days after the order to show cause has issued, the court shall hold a hearing to determine whether to vacate the murder, attempted murder, or manslaughter conviction and to recall the sentence and resentence the petitioner on any remaining counts in the same manner as if the petitioner had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. This deadline may be extended for good cause.

(2) The parties may waive a resentencing hearing and stipulate that the petitioner is eligible to have the murder, attempted murder, or manslaughter conviction vacated and to be resentenced. If there was a prior finding by a court or jury that the petitioner did not act with reckless indifference to

human life or was not a major participant in the felony, the court shall vacate the petitioner's conviction and resentence the petitioner.

(3) At the hearing to determine whether the petitioner is entitled to relief, the burden of proof shall be on the prosecution to prove, beyond a reasonable doubt, that the petitioner is guilty of murder or attempted murder under California law as amended by the changes to Section 188 or 189 made effective January 1, 2019. The admission of evidence in the hearing shall be governed by the Evidence Code, except that the court may consider evidence previously admitted at any prior hearing or trial that is admissible under current law, including witness testimony, stipulated evidence, and matters judicially noticed. The court may also consider the procedural history of the case recited in any prior appellate opinion. However, hearsay evidence that was admitted in a preliminary hearing pursuant to subdivision (b) of Section 872 shall be excluded from the hearing as hearsay, unless the evidence is admissible pursuant to another exception to the hearsay rule. The prosecutor and the petitioner may also offer new or additional evidence to meet their respective burdens. A finding that there is substantial evidence to support a conviction for murder, attempted murder, or manslaughter is insufficient to prove, beyond a reasonable doubt, that the petitioner is ineligible for resentencing. If the prosecution fails to sustain its burden of proof, the prior conviction, and any allegations and enhancements attached to the conviction, shall be vacated and the petitioner shall be resented on the remaining charges.

(e) The petitioner's conviction shall be redesignated as the target offense or underlying felony for resentencing purposes if the petitioner is entitled to relief pursuant to this section, murder or attempted murder was charged generically, and the target offense was not charged. Any applicable statute of limitations shall not be a bar to the court's redesignation of the offense for this purpose.

(f) This section does not diminish or abrogate any rights or remedies otherwise available to the petitioner.

(g) A person convicted of murder, attempted murder, or manslaughter whose conviction is not final may challenge on direct appeal the validity of that conviction based on the changes made to Sections 188 and 189 by Senate Bill 1437 (Chapter 1015 of the Statutes of 2018).

(h) A person who is resented pursuant to this section shall be given credit for time served. The judge may order the petitioner to be subject to parole supervision for up to two years following the completion of the sentence.

Revised Penal Code Section 1170.95 Resentencing Petition (effective January 1, 2022)	<i>For Court Use Only</i>
Petitioner Name: CDCR #: Institution Name: Street Address: City, State, Zip Code: Attorney Name (if applicable): State Bar Number:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF: _____	SUPERIOR COURT CASE NUMBER:
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: _____ DATE OF BIRTH: _____ YEAR OF CONVICTION: _____	<i>For Court Use Only</i>
PETITION FOR RESENTENCING (Pen. Code § 1170.95)	Date: Time: Department:

NOT TO BE FILED BEFORE JANUARY 1, 2022

I _____, declare as follows:

- 1. A complaint, information, or indictment was filed against me that allowed the prosecution to proceed under a theory of felony murder, murder under the natural and probable consequences doctrine or other theory under which malice is imputed to a person based solely on that person's participation in a crime, or attempted murder under the natural and probable consequences doctrine. (Pen. Code, § 1170.95, subd. (a)(1).)
- 2. I was convicted of **murder**, **attempted murder**, or **manslaughter** following a trial or I accepted a plea offer in lieu of a trial at which I could have been convicted of murder or attempted murder. (Pen. Code, § 1170.95, subd. (a)(2).)
- 3. I could not presently be convicted of murder or attempted murder because of changes made to Penal Code §§ 188 and 189, effective January 1, 2019. (Pen. Code, § 1170.95, subd. (a)(3).)

Note: Boxes 1, 2 and 3 must all apply to you and be checked to be considered for resentencing pursuant to Penal Code section 1170.95.

- 4. Having presented a facially sufficient petition, I request that this Court appoint counsel to represent me. (Pen. Code, § 1170.95, subd. (b)(1)(C), *People v. Lewis* (2021) 11 Cal.5th 952, 957.)

5. I have mailed a copy of this Petition to the following:

Office of the District Attorney

County of _____

[Street Address]

[City, State, Zip]

Office of the Public Defender

County of _____

[Street Address]

[City, State, Zip]

OR

[Trial Attorney Name]

[Firm Name]

[Street Address]

[City, State, Zip]

I declare under penalty of perjury that the above is true except as to that stated on information or belief or that which is legal conclusion and as to those, I believe them to be true.

DATE: _____ **CITY:** _____ **STATE:** _____

SIGNATURE: _____ **PRINTED NAME:** _____

CALIFORNIA COUNTY PUBLIC DEFENDER CONTACT LIST

Appellate Projects

<p>1st District First District Appellate Project 475 Fourteenth Street, Suite 650 Oakland, CA 94612 415-495-3119</p> <p>Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Solano, Sonoma</p>	<p>2nd District California Appellate Project 520 S. Grand Ave., 4th Floor Los Angeles, CA 90071 213-243-0300</p> <p>Los Angeles, Ventura, Santa Barbara, and San Luis Obispo</p>
<p>3rd & 5th District Central California Appellate Program 2150 River Plaza Dr., Ste. 300 Sacramento, CA 95833 916- 441-3792</p> <p>Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yolo Yuba</p> <p>Fresno, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne</p>	<p>4th District Appellate Defenders, Inc. 555 West Beech St., Suite 300 San Diego, CA 92101 619- 696-0282</p> <p>Inyo, San Bernardino, Riverside, Orange, San Diego, Imperial</p> <hr/> <p>6th District Sixth District Appellate Program 95 S. Market Street, Suite 570 San Jose CA 95113 408 241-6171 ext 108</p> <p>Santa Clara, San Benito, Santa Cruz, and Monterey</p>

Public Defender Offices

<p>Alameda Alameda County Public Defender 1401 Lakeside Drive #400 Oakland, CA 94612-4305 510-272-6600</p>	<p>Imperial Imperial County Public Defender 895 Broadway El Centro, CA 92243 442-265-1705</p>
<p>Contra Costa Contra Costa County Public Defender 800 Ferry Street Martinez, CA 94553 925-335-8000</p>	<p>Kern Kern County Public Defender 1315 Truxtun Ave Bakersfield, CA 93301 661-868-4799</p>
<p>El Dorado El Dorado County Public Defender 1360 Johnson Blvd., Ste 106 South Lake Tahoe, CA 96150 530-573-7955</p>	<p>Lassen Lassen County Public Defender 2950 Riverside Dr Ste 103 Susanville, CA 96130-4710 530-251-8312</p>
<p>Fresno Fresno Public Defender's Office 2135 Fresno Street, Suite 100 Fresno, CA 93721 (559) 600-3546</p>	<p>Los Angeles Los Angeles County Public Defender 210 W Temple St Floor 19 Los Angeles, CA 90012-3231 213-974-2811</p>
<p>Humboldt Humboldt County Public Defender 1001 4th Street Eureka, CA 95501-0544 707-445-7634</p>	<p>Marin Marin County Public Defender 3501 Civic Center Drive #139 San Rafael, CA 94903 415-473-6321</p>

CALIFORNIA COUNTY PUBLIC DEFENDER CONTACT LIST

Mendocino Mendocino County Public Defender
 175 S School Street
 Ukiah, CA 95482-4825
 707-234-6950

San Bernardino San Bernardino County Public Defender
 172 W 3rd St Floor 2
 San Bernardino, CA 92415-0320
 909-382-3940

Merced Merced County Public Defender
 1944 M Street
 Merced, CA 95348
 209-385-7692

San Diego San Diego County Public Defender
 451 A Street, Suite 900
 San Diego, CA 92101
 619-338-4700

Monterey Monterey County Public Defender
 168 W Alisal Street 2nd Floor
 Salinas, CA 93901
 831-755-5058

San Francisco San Francisco Public Defender
 555 7th Street
 San Francisco, CA 94103
 415-553-1671

Napa Napa County Public Defender
 1127 First Street, Ste B
 Napa, CA 94559
 707-253-4442

San Joaquin San Joaquin County Public Defender
 102 S San Joaquin Street #1
 Stockton, CA 95202
 209-468-2730

Nevada Nevada County Public Defender
 109 N Pine Street
 Nevada City, CA 95959
 530-265-1400

Santa Barbara Santa Barbara County Public Defender
 1100 Anapapa Street, 3rd Floor
 Santa Barbara, CA 93101
 805-568-3470

Orange Orange County Public Defender
 801 Civic Center Dr W, Ste 400
 Santa Ana, CA 92701-4033
 657-251-6090

Santa Clara Santa Clara County Public Defender
 120 West Mission Street
 San Jose, CA 95110
 408-299-7700

Riverside Riverside County Public defender
 4075 Main Street Suite 100
 Riverside, CA 92501
 951-955-6000

Shasta Shasta County Public Defender
 1815 Yuba Street
 Redding, CA 96001
 530-245-7598

Sacramento Sacramento County Public Defender
 700 H Street #2070
 Sacramento, CA 95814
 916-874-6411

Siskiyou Siskiyou County Public Defender
 322 1/2 West Center Street
 Yreka, CA 960697
 530-842-8105

Solano Solano County Public Defender
 675 Texas Street, Ste 3500
 Fairfield, CA 94533
 707-784-6700

CALIFORNIA COUNTY PUBLIC DEFENDER CONTACT LIST

Sonoma	Sonoma County Public Defender 600 Administration Dr #111J Santa Rosa, CA 95403 707-565-2791	Tuolumne	Tuolumne County Public Defender 99 N. Washington Street Sonora, CA 95370 209-533-6370
Stanislaus	Stanislaus County Public Defender 1021 I Street Ste 201 Modesto, CA 95354 209-525-4200	Ventura	Ventura County Public Defender 800 S. Victoria Ave, HOJ #207 Ventura, CA 93009 805-654-2201
Tulare	Tulare County Public Defender 221 S. Mooney Blvd Visalia, CA 93291 559-636-4500	Yolo	Yolo County Public Defender 814 North Street Woodland, CA 95695 530-666-8165

Contract Offices

Alpine	Eric Acevedo 99 Water St. Markleeville, CA 96150 530-694-2287	Glenn	Albert Smith P.O. Box 1346 Colusa, CA 95932 530-458-8801
Amador	Richard Ciummo & Associates 201 Clinton Rd Ste 202 Jackson, CA 95642-2678 209-223-0877		David Nelson 333 North Plumas Willows, CA 95988 530-934-3680
Butte	Butte Co. Public Defender Consortium 1560 Humboldt Rd Ste 1 Chico, CA 95928-9101 530-345-1647	Inyo	Josh Hillemeier 314 W Line St, Ste C Bishop, CA 93514-3443 760-462-5845
Calaveras	Richard Esquivel 265 West St. Charles Street, Ste. 4 San Andreas, CA 95249 209-754-4321	Kings	Marianne Gilbert 4125 W Noble Ave #199 Visalia, CA 93277 559-816-2997
Colusa	Albert Smith 229 5th St Colusa, CA 95932 530-458-8801	Lake	Frederick Raper P.O. Box 1219 Lakeport, CA 95453-1219 707-262-1820
Del Norte	Karen Olson 431 H St Ste A Crescent City, CA 95531-4019 707-464-2350		

CALIFORNIA COUNTY PUBLIC DEFENDER CONTACT LIST

Madera
 Ciummo & Associates
 221 North I Street
 Madera, CA 93637
 559-674-4696

San Benito
 Gregory LaForge
 339 Eventh Street Suite G
 Hollister, CA 95023
 831-636-9499

Mariposa
 Eugene Action
 P.O. Box 696
 Ahwahnee, CA 93601
 559-283-9772

San Luis Obispo
 San Luis Obispo Defenders
 991 Osos Street, Ste A
 San Luis Obispo, CA 93401
 805-541-5715

Neal Douglas
 P.O. Box 2131
 Mariposa, CA 95338
 559-760-5149

San Mateo
 Private Defender Program
 333 Bradford, Suite 200
 Redwood City, CA 94063
 560-298-4047

H. Wayne Green
 758 E Bullard Ave Ste 100
 Fresno, CA 93710
 559-432-2750

Santa Cruz
 Santa Cruz Public Defenders
 2103 N Pacific Avenue
 Santa Cruz, CA 95060
 831-429-1311

Modoc
 Richard Cotta
 P.O. Box 7
 Alturas, CA 96101
 530-233-3040

Sierra
 J. Lon Cooper
 P.O. Box 682
 Nevada City, CA 95959
 530-265-4565

Mono
 David Hammon
 P.O. Box 1176
 Bishop, CA 93515-1176
 760-873-4760

Sutter
 Mark Van den Heuvel
 604 B Street Ste 1
 Yuba City, CA 95991
 530-822-7355

Placer
 Koukol & Associates
 3785 Placer Corporate Dr #550, Rocklin, CA
 Rocklin, CA 95765
 916-644-1100

Tehama
 Ronald Mclver
 P.O. Box 8578
 Red Bluff, CA 96080
 530-527-5113

Plumas
 Robert Zernich
 447 Main Street
 Quincy, CA 95971
 530-283-1010

Christopher Logan
 1248 Washington St.
 Red Bluff, CA 96080
 530-529-1263

Bill Abramson
 P.O. Box 3242
 Quincy, CA 95971

CALIFORNIA COUNTY PUBLIC DEFENDER CONTACT LIST

Trinity

Derrick Riske
575 B Main Street
Weaverville, CA 96093
559-636-4500

Yuba

Yuba Public Defenders
303 6th Street
Marysville, California, 95901
530-741-2331