

- (1) The person was sentenced pursuant to Section 667, 1170.12, or both, of the Penal Code and/or 707 of the welfare and institutions code prior to those sections being amended by this act.
 - (2) The currently charged felony resulting in the imposition of an indeterminate term of life in prison was not described as a violent or serious felony pursuant to this act.
- (b) A person who is currently serving an indeterminate term of life in prison for a felony by virtue of a plea, if the following apply:
- (1) The person was sentenced pursuant to Section 667, 1170.12, or both of the penal code, and/or 707 the welfare and institutions code, prior to those sections being amended by this act.
 - (2) The currently charged felony resulting in the imposition of an indeterminate term of life in prison was not described as a violent or serious felony pursuant to this act.
- (c) The person agrees before the court pursuant to subdivision (b) shall, in the written motion, expressly waive double jeopardy for purposes of resentencing, in regard to any charges arising out of the same set of operative facts resulting in the plea, for charges that were not filed, or were dismissed pursuant to the plea.
- (d) If the court determines that the person was sentenced pursuant to the three strikes statutes prior to their amendment by this act, and the person meets the requirements of either subdivision (a) or (b), the court shall order that person to be resentenced, subject to subdivision (f), and in compliance with the sentencing laws as amended by this act.
- (1) If the court grants resentencing for a person meeting the requirements of subdivision (a), the district attorney may also file any charges based on the same set of operative facts that resulted in the conviction, that were not filed in connection with the conviction, and for which the statute of limitations has not expired.
 - (2) If the court grants resentencing for a person meeting the requirements of subdivision (b), a district attorney seeking to file or refile charges arising out of the same set of operative facts resulting in the plea that were not filed or were dismissed pursuant to the plea shall obtain the court's permission to file or refile those charges. The district attorney shall have to show by a preponderance of the evidence that the charges would have been filed, or would not have been dismissed, but for the plea.
- (f) A person who meets the requirements of subdivision (a) or (b) shall be entitled to representation by counsel under this section, and for the purposes of resentencing, trial, or retrial. The person may request appointment of counsel by sending a written request to the court.
- (j) The case shall be heard by the judge who conducted the trial, or accepted the convicted person's plea of guilty or nolo contendere, unless the presiding judge determines that judge is unavailable. Upon request of either party, the court may order, in the interest of justice, that the convicted person be present at the hearing of the motion.
- (k) Notwithstanding any other provision of law, the right to resentencing pursuant to this act is absolute and shall not be waived. This prohibition applies to, but is not limited to, a waiver that is given as part of an agreement resulting in a plea of guilty or nolo contendere.
- (l) Those qualifying individuals shall be remanded to court and re-sentenced within no less than 30 days, and no more than 180 days, of this Act becoming effective, unless the qualifying individual personally waives this right in during the 180 day time period.
- (l) Nothing in this section shall be construed as limiting the grounds for a writ of habeas corpus, or as precluding any other remedy.

(m) Under no circumstances may the resentencing, trial, or retrial of any individual pursuant to this section result in a sentence that is longer than the current sentence

(n) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 12. LIBERAL CONSTRUCTION

This Act is an exercise of the public power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate these purposes.

SECTION 13. SEVERABILITY

The provisions of this Act are severable. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 14. CONFLICTING MEASURES

If this measure is approved by the voters, but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this Act shall be self-executing and given the full force of law.

SECTION 15. EFFECTIVE DATE

This Act shall become effective immediately upon its approval by the voters.

SECTION 16. SELF-EXECUTION

This Act shall be self-executing.

SECTION 17. AMENDMENT

This Act shall not be altered or amended except by one of the following:

- (a) By statute passed in each house of the legislature, by roll call entered in the journal, with two-thirds of the membership and the Governor concurring, or
- (b) By statute passed in each house of the Legislature, by roll call vote entered in the journal, with a majority of the membership concurring, to be placed on the next general ballot, and with the majority of the electors concurring, or
- (c) By statute that becomes effective when approved by a majority of the electors.