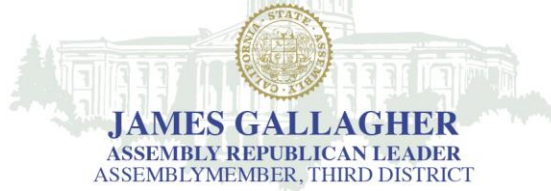


STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0003
(916) 319-2003
FAX (916) 319-2103

E-MAIL
Assemblymember.Gallagher@assembly.ca.gov

Assembly
California Legislature



JAMES GALLAGHER
ASSEMBLY REPUBLICAN LEADER
ASSEMBLYMEMBER, THIRD DISTRICT

DISTRICT OFFICES
2060 TALBERT DRIVE, SUITE 110
CHICO, CA 95928
(530) 895-4217
FAX (530) 895-4219

1130 CIVIC CENTER BOULEVARD, SUITE F
YUBA CITY, CA 95993
(530) 671-0303
FAX (530) 671-0308

September 13, 2022

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

RE: RECOMMENDED VETO OF SB 1106 (WIENER, S)

Dear Governor Newsom:

I respectfully request a veto of Senate Bill 1106, which passed the Assembly on 5/26/22 by a vote of 47 to 22, with 17 members of the Assembly Republican Caucus voting "No."

SB 1106 modifies resentencing, reduction of charge, and conviction expungement statutes to remove the discretion that judges have to deny this relief if the petitioner has not completed payment of direct victim restitution orders or restitution fines. It provides that that an unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfill the condition of probation for the entire period of probation. It repeals a provision of law that provides that no parolee or inmate may be released on parole to reside in any other receiving state if the parolee or inmate is subject to an unsatisfied order of restitution to a victim or a restitution fine within the sending state.

The obligation to pay direct restitution to any victim who suffers losses as a result of criminal activity is a key principle of California's criminal justice system. It is a right enshrined in Article I, section 28 of the State Constitution. While this bill does not eliminate the obligation to pay restitution altogether, it will send the message that failure to pay the offender's debt to the victim is not serious and should never stand in the way of the offender being granted the various types of relief covered by this bill.

A defendant who does not comply with core conditions of probation has not demonstrated that he or she is rehabilitated. A parolee who has not paid full restitution to the victim does not deserve to be allowed to be transferred out-of-state. A felon who has not paid restitution does not deserve to have his or her charges reduced to a misdemeanor.

It is not an adequate response to these arguments to say, as supporters of this bill have, that the victim can enforce any unpaid restitution order as a civil judgement. The state appropriately collects restitution on behalf of the victim while the offender is under correctional supervision. We should not place the burden on the victim to seek payment of restitution through the civil justice system and make it even more difficult for him or her to do so by allowing the offender to transfer his or her parole to another state.

This bill takes away judges' ability to consider failure to pay direct restitution and restitution fines as evidence of lack of rehabilitation. However, an offender who fails to comply with the terms and conditions of release, and particularly the fundamental requirement to make the victim whole, is not rehabilitated and does not deserve the various types of relief covered by this bill. Judges should continue to be allowed to consider those considerations when determining whether to grant relief to the offender.

For the reasons stated above, I respectfully request that you veto Senate Bill 1106.

Sincerely,



James Gallagher
Assembly Republican Leader