

California Resentencing Guide For Life Without Parole Sentences (LWOP)

September 2025

About the Authors

Drop LWOP Coalition

The Drop LWOP Coalition works to end Life Without Parole sentencing in California. Our goal is to afford relief to those currently serving this sentence, no matter the conviction, through legislative change, commutations, pardons, resentencing, and public awareness about the injustice of the LWOP sentence.

UC Berkeley School of Law Criminal Law & Justice Center (CLJC)

CLJC is a hub for research, education and advocacy. Blending a data-driven approach with zealous advocacy, the center offers empirical insights into the intricacies of the legal system and policy outcomes. We harness the wealth of perspectives, experiences and expertise that our students and faculty bring to bridge the gap between scholarship and real world impact.

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Introduction

More than 5,000 individuals are serving sentences of life without the possibility of parole in California, a sentence that has been deemed “death by incarceration” by those living it, as well as Human Rights Watch, the United Nations, and many other organizations.

Life Without the Possibility of Parole (LWOP) sentences are designed to be permanent. However, California's evolving approach to criminal justice has created several potential paths to resentencing for people with LWOP sentences. This guide explains these options in clear, accessible language for incarcerated individuals and their loved ones.

No path guarantees success, but understanding the full range of options increases the chances of finding relief. This guide will help you identify which paths might apply to your specific situation, what documentation you'll need, and how to navigate the legal process effectively.

Intent Behind This Guide

Nothing in this guide should be construed as legal advice or counsel. It is always advised you consult with an attorney before filing anything in court. However, the authors recognize that access to justice is limited for those in prison. As such, the legal work often falls on the incarcerated individuals and their loved ones to navigate a complex criminal legal system alone. This guide is intended to help readers understand different paths to resentencing in California that exist for people serving LWOP sentences. This guide will be updated periodically with new information, resources, and changes to processes or the law.

Important Note regarding Resentencing and the Racial Justice Act (RJA)

Attorneys working on RJA implementation note that the Attorney General's Office has argued that if someone is before the court for a resentencing after 2021 and they do not raise the RJA, they've forfeited their RJA claims. If you are pursuing resentencing please consult with your attorney/advocates about whether it's important for you to raise any RJA issues.

Understanding LWOP Terminology

Before exploring resentencing options, it's important to understand key legal terms that will appear throughout this guide:

- **LWOP (Life Without Parole):** A sentence that legally prevents release from prison for the person's lifetime, with no possibility of parole consideration.
- **FLWOP (Functional Life Without Parole):** Sentences that aren't technically LWOP but are so long (like 110 years to life) that they effectively amount to a lifelong sentence.
- **Resentencing:** The legal process of having a court impose a new, typically shorter sentence replacing the original sentence.
- **Petition/Motion:** A formal written request to the court asking for legal relief.
- **Ameliorative Laws:** Laws passed after a person's conviction that reduce punishment or provide opportunities for reduced sentences.
- **Retroactive:** When a new law applies to cases that are already final (a case is final when all appeals have been exhausted).
- **Prima Facie Hearing:** An initial hearing where the court determines if basic eligibility requirements are met before proceeding to a full hearing.
- **Franklin Hearings:** Collects evidence for youth parole hearings to evaluate the impact of a person's youth when they committed an offense. Though they are not for reducing sentences, they may be relevant for cases involving youthful offenders.

A. Juvenile LWOP

Eligibility Requirements

To qualify for relief under Penal Code section 1170(d)(1) and *People v. Heard*, a person must:

- Have been convicted of a crime committed before they turned 18
- Be serving LWOP (people with a functional LWOP (FLWOP) sentence are also eligible because of *People v. Heard*)
- Have been incarcerated for at least 15 years

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- Provide a statement demonstrating remorse and rehabilitation
 - Meet at least one of these additional criteria:
 - Convicted of felony murder or aiding and abetting murder
 - No juvenile adjudications for assault or other serious felonies (besides current case)
 - Committed the offense with at least one adult co-defendant
 - Demonstrated rehabilitation through programming

Exclusions

Relief is not available if:

- The person was over 18 at the time of the crime
- The case involved torture that was pled and proven
- The victim was a law enforcement officer or firefighter
- The person is not serving LWOP or FLWOP.

Potential Relief

If the court grants the petition, the judge can:

- Transfer the case to juvenile court (for those who were 14-15 at the time)
- Order a transfer hearing (for those who were 16-17 at the time)
- Reduce the sentence, applying all ameliorative laws retroactively
- Leave the sentence unchanged (but cannot increase it)

The Petition Process

- File a petition for Recall & Resentence in the court where you were convicted, and serve a copy of the petition on the prosecutor. Include rehabilitative materials.
- The judge will consider your petition, and any response by the prosecutor, and will either grant or deny your petition.
- If granted, your case may be sent back to juvenile court. However, the prosecution may try to have the case sent back to criminal court.
- If denied, you may refile your petition after you have served 20 years.

Timeline

- No statutory deadline for filing
 - Court review typically takes 3-6 months
 - If a hearing is granted, it may be scheduled 3-12 months later.
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B. Felony Murder Reform (SB1437)

Understanding Felony Murder

The traditional felony murder rule allowed anyone involved in certain felonies to be charged with murder if someone died during the commission of that felony, even if they didn't kill anyone or intend for anyone to die.

The felony murder rule has had a significant racial impact. Black individuals make up only 5% of California's population but account for 42.7% of those convicted of felony murder. SB1437 was partly designed to address this disparity.

SB1437, passed in 2018, significantly changed Penal Code § 1170.95, now renumbered as Penal Code 1172.6, so that people who were not the “actual killer” in a murder cannot be convicted of murder unless they:

(1) possessed the intent to kill and they aided and abetted the person who killed with knowledge of that person's intent, or

(2) they were a “major participant” in the commission of certain felonies and acted with “reckless indifference” to human life.

(3) SB 1437 explicitly carves out an exception to the new rule when the murder victim is a law enforcement official.

Eligibility Requirements

To qualify for relief under PC § 1172.6, the person must meet ALL of these criteria:

- They were not the person who killed.
- They did not act with intent to kill or as a major participant with reckless indifference to human life.
- They were convicted of felony murder or under the natural and probable consequences doctrine. (To be eligible your case should have “felony murder” and “natural and probable consequences” as jury instructions.)
- The victim was not a peace officer.

Exclusions

- The victim was a peace officer.
- The person convicted actually killed a person or persons (there are very limited exceptions).
- The person convicted had intent to kill.
- The person convicted played a significant role in the crime.

The Petition Process

- You must file a petition for resentencing under Penal Code § 1172.6 and allege a prima facie eligibility for relief (no filing deadline).
- The DA has 60 days to respond
- The defense can reply within 30 days
- The judge holds a prima facie hearing to determine eligibility
- If eligible, an evidentiary hearing is scheduled where the prosecution must prove beyond a reasonable doubt that the person could still be convicted of murder under current law.
- Under California’s SB 1437, you are entitled to court-appointed counsel if you request an attorney when filing for resentencing under Penal Code Section 1172.6.

Potential Relief

If the prosecution cannot meet their burden, the court must:

- Vacate the murder conviction

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- Resentence on any remaining charges
 - Apply all ameliorative laws, as the case is no longer final

If denied at any stage, the person can file a notice of appeal. In cases where denial seems likely, attorneys may be able to negotiate resentencing through another path.

C. Racial Justice Act

Purpose and Intent

The Racial Justice Act (RJA) was enacted to eliminate racial bias from California's criminal legal system. It provides remedies for discriminatory practices in seeking convictions or imposing sentences. The Ella Baker Center has published very thorough English and Spanish guides to help people pursue resentencing using the Racial Justice Act that can be found at <https://ellabakercenter.org/rja-info/>. Ella Baker Center can send a paper copy of the extensive guides to people in prison (please see section K for their contact information).

Eligibility

A person may qualify if racial bias played a role in their case through:

- Explicit or implicit racist language by attorneys, judges, witnesses, or jurors
- Use of racially discriminatory stereotypes
- Racial disparities in charging, plea deals, or sentencing in the jurisdiction
- Improper exclusion of jurors based on race

Types of RJA Claims

- **745(a)(1)**: Violations throughout the case
- **745(a)(2)**: Violations during trial
- **745(a)(3)**: Violations through disparities in charging and convictions
- **745(a)(4)**: Violations through disparities in sentencing

Finding Evidence of Bias

Evidence may be found in:

- Police reports and body camera footage
- Trial transcripts
- Public Records Act (PRA) requests
- 745(d) discovery requests
- News articles
- Social science research
- Local historical studies
- Police/DA press releases

The person who lived through the case often knows best where bias occurred.

The Petition Process

- To begin challenging a conviction under the RJA, you must submit a request to the same court that issued your sentence. This request must clearly identify the type of racial, ethnic, or national origin bias you allege and explain how it influenced your conviction or sentence. You should also be sure to request appointment of counsel (the RJA states there should be a low threshold for the appointment of counsel).
- The document should summarize the facts of your case and present reasoned arguments demonstrating that prejudice affected the outcome. Potential grounds include bias in actions by prosecutors, law enforcement, jurors, defense counsel, or the trial court itself. Each claim should be supported with relevant details to strengthen your case.
- The Racial Justice Act for All introduced a staged approach for seeking relief in court. For people who have already been convicted and sentenced, eligibility is spread out over several years:
 - January 1, 2023: Those facing deportation or the death penalty.
 - January 1, 2024: Individuals serving felony prison sentences.
 - January 1, 2025: Non-incarcerated people w/ felony convictions after 2015.
 - January 1, 2026: All others with felony convictions.

Procedure and Burden of Proof

- At the first step, a person must present facts and evidence suggesting a strong chance of racial bias in their case—this is the “prima facie” stage, where the standard is “substantial likelihood.”
- Under the RJA, you may ask the court to order the state to provide evidence related to your case. If you file a motion and demonstrate “good cause,” the court can require those materials to be shared with you. These requests are called “discovery requests” and they are outlined in section 745(d) of the RJA penal code. Because of this, you may hear them referred to as “D motions.”
- At the RJA evidentiary hearing, you will need to prove the violation by a preponderance of the evidence. It is often helpful to enlist expert testimony.

Importantly, you do NOT need to prove intentional discrimination – the law focuses on discriminatory impact.

Potential Relief

If a violation is found, the judge MUST impose an appropriate remedy, such as:

- Ordering a new trial
- Dismissing enhancements or special circumstances
- Reducing charges
- In some cases, vacating the conviction and finding it legally invalid may be appropriate

Important Notes

- RJA can be retroactively applied to all felonies as of 2026 (and misdemeanors only if it can subject someone to deportation).
- Cases involving death sentences or immigration consequences already have retroactive application, but given the complexities of these types of cases, it is advised to consult with an attorney before any filing.

D. Discretionary Resentencing

PC 1172.1: DA or CDCR Initiated

- Allows a District Attorney or the Department of Corrections to recommend a case for resentencing; Board of Parole Hearings and Sheriffs also have this authority
- Creates a presumption in favor of resentencing unless it would pose a substantial public safety risk
- District Attorneys have recommended people sentenced to LWOP for resentencing
- CDCR has not recommended people sentenced to LWOP for resentencing. While no legislative exclusions exist for LWOP cases, CDCR's current resentencing regulations exclude people sentenced to LWOP. We continue to organize against this exclusion.

DA Criteria for Referrals

DAs typically consider the following but every office is different:

- The underlying crime (mitigating and aggravating factors)
- Current victim and next of kin input
- Significant rehabilitation during incarceration
- Clean disciplinary record for an extended period
- Completion of educational and rehabilitative programming
- Low risk assessment scores, classification scores, prison levels
- Sentences that would be significantly lower under current law
- Health considerations, especially for elderly individuals

Process and Timeline for DA Resentencing

- People can seek recommendations from the DA in the county where they were sentenced.
- When making a request for recommendation, include all mitigating and supporting materials along with the request. Assume they have and know nothing about you or your case. Lay out the factors about why you should be resentenced. Some reasons might include:
 - Extensive rehabilitation

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- Excessive sentencing
 - Racial disparities or injustices in the case, other changes in law not retroactive but applicable, etc.
 - If the DA recommends resentencing, the Court must hold a status hearing for appointment of counsel within 30 days.
 - If there is opposition or victim input, the court will typically hold a hearing, where both sides can present evidence.
 - Ella Baker Center has published a very thorough guide to assist people with PC 1172.1 resentencing: [Back to Court: A Resentencing Guide for Penal Code section 1172.1 and New Sentence Enhancement Laws in California](#). Ella Baker Center can send a paper copy of the extensive guide to people in prison (please see section K for their contact information).

PC 1172.1/AB600: Judge Initiated

- Allows judges to recall sentences at any time
- No case or crime exclusions
- No presumption in favor of resentencing
- Judges can reduce trial case sentences without DA concurrence (agreement)
- Judges are not required to take action
- Can consider based on invitation by defense
- Very few judges have used this power

Process and Timeline for Judge Initiated Resentencing

- While people can't directly make their own motion to resentence, they can invite the judge to recall their sentence through written request. There is no requirement that the judge act on the request. It is still extremely rare for a judge to use their power to resentence a person.
- For judge-initiated reviews each court creates its own process for considering resentencing.
- If a judge decides to recall a sentence, they are to set a status hearing within 30 days for appointment of counsel.

Potential Relief for all Discretionary Resentencing

When granting relief under PC § 1172.1, the court:

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- **Must** reduce the sentence
 - Can apply all ameliorative sentencing laws (laws that reduce punishment)
 - For LWOP pre-1990 cases, can strike special circumstances
 - For LWOP post-1990 cases, must resentence to a lesser included offense
 - Must provide a "meaningful modification" that creates actual change in circumstances
 - After resentencing, CDCR usually takes 5-7 days to recalculate the sentence
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E. Clemency

Overview

It is important to note that clemency is not “resentencing.” However, it is included in this guide as another avenue to seek relief in conjunction with resentencing petitions.

Clemency refers to various forms of mercy shown by the government. This executive power exists outside the court system. There are currently three types of clemency in California: commutations, pardons, and reprieves. A commutation allows the Governor to reduce or eliminate a sentence, but it does not change the conviction. A **pardon** is considered an expression of forgiveness, typically given for accepting responsibility and sustained good behavior. Unlike commutations, pardons can restore certain rights people lose due to a conviction. In some cases, pardons allow for immigrants to reopen their deportation cases. A reprieve from incarceration is a newer form of clemency in California that temporarily suspends a sentence, essentially putting a person’s sentence on hold to allow for release. Most reprieves granted so far in California have been medical reprieves.

Eligibility

Anyone can apply, but commutations are typically granted to those who:

- Have demonstrated exceptional rehabilitation
- Have served substantial time (often 20+ years for serious offenses)
- Have strong community support and reentry plans
- Present compelling circumstances (health concerns, sentencing disparities, etc.)

Application Process

In California, the official commutation petition—called the Application for a Commutation of Sentence—is available as a PDF on the Governor’s website. You can apply for a reprieve using the same commutation application—just note that you’re applying for a reprieve and be sure to include a [medical release form](#) if you’re seeking a medical reprieve. Access the form here: <https://www.gov.ca.gov/wp-content/uploads/2023/09/Commutation-Application-FORM-2023.pdf>.

You can access a helpful guide from the California Coalition for Women Prisoners for completing the application here:

<https://droplwop.com/commutations-application-guide/>

As well as a pardon guide from Asian Law Caucus:

<https://cdn.craft.cloud/5cd1c590-65ba-4ad2-a52c-b55e67f8f04b/assets/media/Pardon-Guide-JAN2023.pdf>

G. Documentation & Evidence Gathering

Case Documents to Collect

- Prison C-file
- CDCR medical and mental health records (CDCR Form 7385)
- Court files and transcripts
- Attorney files and notes
- Juvenile records and dependency records
- School records
- Original discovery materials
- Medical and psychological evaluations
- Personal history documentation
- Parole hearing transcripts, if applicable

Mitigating Documentation for All Resentencing Paths

- **Letter of remorse** demonstrating understanding of harm caused.
- **Educational achievements** transcripts, GED, HS diploma, Associate degree, Bachelor degree, etc.
- **Rehabilitation documents** ILTAG group completions (AA, NA, CGA, Lifer Group, Al-Anon, etc.
- **Laudatory Chronos** from staff.

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- **Support letters** from family, friends, organizations.
 - **Rules violation report (RVR) accountability statements** explaining growth since infractions.
 - **Journey of transformation** narrative.
 - **Medical incapacity information** if applicable.
 - **Detailed reentry plan** including housing, employment, and support systems.
 - **Relapse prevention plan** for substance abuse, criminal behavior, or mental health issues.

Start gathering this documentation as early as possible, as it can take months to obtain records from various agencies. Please see the Appendix for samples of many of these documents.

H. Finding Legal Representation

Where to Look

If you are referred for resentencing by a DA or a Judge, or request an attorney when filing a PC § 1172.6 petition, you have a right to counsel and the court will assign you an attorney. Seeking private/paid counsel is often discouraged for resentencing matters, since public defenders are typically better trained in resentencing laws and strategies. If you are looking for legal representation, you may want to consider:

- Public Defender's Office (first option to explore)
- Law school clinics
- Bar Associations
- Non-profit legal organizations
- Private attorneys specializing in post-conviction relief

Questions to Ask Potential Attorneys

- What experience do you have with this specific type of resentencing?
- What is your success rate with similar cases?
- What specific training (CLEs) have you taken in the last year? (example: RJA attorneys are required to have 10 hours of CLE on RJA to practice)
- What are all costs involved and what exactly is included?
- How do you communicate with clients and their families?
- What resources do you have for investigation and experts?
- What strategy would you recommend for my case?
- What is your estimated timeline?

Vetting Considerations

- Research the attorney's background and State Bar discipline history
- Ask for examples of similar cases and references
- Establish clear communication expectations
- Understand their strategy before retaining them
- Be wary of anyone making specific outcome promises

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- Never feel pressured to make immediate payments or sign agreements without time to review
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I. Pursuing Resentencing Without an Attorney

Filing Location

Always file requests/petitions/motions in the Superior Court of the county where the conviction occurred, not where the person is currently incarcerated.

Cautions

- Be very careful with habeas corpus filings, appeals that challenge the legality of confinement, as they have a high burden of proof and could potentially waive important claims.
- When possible, use statutory remedies, or laws passed by the legislature (like felony murder reform via PC 1172.6), rather than habeas corpus filings.
- Always attach all supporting documentation to your petition. Keep original copies of *everything*.

Law Library Resources

Prison law libraries should have:

- Sample petition forms
- California Rules of Court
- Relevant case law
- Legal research materials

Getting Help

- Some prisons have "jailhouse lawyers" who may assist with paperwork
 - Family members can contact court clerks for filing requirements
 - Some non-profit organizations provide self-help guides for specific petitions
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J. Potential for Legislative Change

There are still significant exclusions for LWOP cases that could be addressed through future legislation:

Current Exclusions

- No Youth Offender Parole hearings for LWOP cases, despite Justice Evans' powerful dissent in *People v. Hardin* noting that "The exclusion bears the taint of racial prejudice and perpetuates extreme racial disparities plaguing our juvenile and criminal justice systems."
- No compassionate release for LWOP cases, making commutation or medical reprieve the only option for those with serious medical conditions.

Advocacy Opportunities

- Contact state legislators about expanding relief for LWOP cases
- Support organizations working on sentencing reform
- Consider joining community coalitions focused on these issues
- Share personal stories with advocacy organizations that highlight the need for change

K. Resources & Support Organizations

- **Drop LWOP Coalition:** www.droplwop.com. Write to Drop LWOP to request support letters::

Drop LWOP Inreach
P.O. Box 308
Apple Valley, CA 92307

While not directly related to Resentencing, the Drop LWOP Coalition can also provide CCWP's Commutation Application Guide: <https://droplwop.com/commutations-application-guide/>

- **Families United to End LWOP (FUEL):** <https://fuelwop.org/>. Write to FUEL to request support letters and other resources:

FUEL

6109 S. Western Avenue #100
Los Angeles, CA 90047

- **Felony Murder Elimination Project (FMEP):** <https://www.endfmrnow.org/>. Write to FMEP for specific questions and resources related to Felony Murder:

Felony Murder Elimination Project
P.O. Box 441
Clayton, CA 94517

- **Ella Baker Center for Human Rights:** <https://ellabakercenter.org/>. Write to Ella Baker Center for their Resentencing guide “Back to Court”, their RJA Guide, and other legal resources/guides:

Ella Baker Center for Human Rights
1419 34th Ave, Suite 202
Oakland, CA 94601

- **California Coalition for Women Prisoners (CCWP):** <https://womenprisoners.org/> CCWP offer penpal advocates and information/resources with a focus on people in women’s prisons

CCWP
4400 Market Street
Oakland, CA 94608

- **County-specific Public Defenders** - reach out to the Public Defenders in your county of conviction to see if they provide resources to assist with resentencing

Appendix: Sample Documents & Templates

Please click on the links below if you are able. If you are unable to click on the links, please first reach out to a loved one to ask them to send you a printed version. Or you can reach out to the organizations listed above to see if they have capacity to provide printed versions.

Templates and Examples

- [Template for AB 600 resentencing request](#)

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- [Sample letter of remorse from UnCommon Law](#)
 - [Sample relapse prevention plan](#)
 - [Sample parole plan from UnCommon Law](#)

CDCR forms

- [Central File Authorization Form](#)
- [Medical records request forms from CDCR](#)

Guides

- [Reentry plan guide from Root & Rebound](#)
- [Parole plan guide from UnCommon Law](#)
- [Support letter guide from UnCommon Law](#)
- [DA-initiated resentencing guide with multiple supporting document templates](#)
- [Racial Justice Act guide from Ella Baker Center](#)
- [CCWP's Commutation Application Guide](#)
- [Ella Baker Center's 1172.1 resentencing guide 'Back to Court'](#)
- [Clemency Advocacy Guide by the Clemency Coalition](#)
- [Pardon guide from Asian Law Caucus](#)

Conclusion

While LWOP sentences were designed to be permanent, California's evolving approach to criminal justice, mobilized by powerful advocacy across prison walls, has created several avenues for potential relief. The key to successful resentencing is understanding which paths apply to your specific situation, gathering comprehensive documentation, and pursuing all viable options with persistence and patience.

Remember that many people qualify for more than one path to resentencing, and if one approach is unsuccessful, another might succeed. Start by identifying which criteria you or your loved one meets, gathering the necessary documentation, and seeking qualified legal assistance when possible. This guide

is meant to provide information and direction, but each case has unique circumstances. When possible, consult with an attorney who specializes in post-conviction work to develop a strategy tailored to your specific situation.