



ASSEMBLY MEMBER — DISTRICT 44

Nick Schultz

AB 1036 – Discovery: post-conviction

Summary:

AB 1036 ensures greater fairness in the post-conviction process by allowing individuals convicted of felonies resulting in a sentence of one year or more to obtain discovery materials from prosecutors and law enforcement. The bill removes the requirement that defendants must first seek discovery from trial counsel and broadens the definition of "discovery materials" to include exculpatory and mitigating evidence along with jury selection notes. By expanding and modernizing post-conviction discovery statutes, California can improve the efficiency and fairness of its justice system while correcting wrongful convictions.

Background:

Many wrongfully convicted individuals lack access to critical evidence that could prove their innocence or mitigate their sentences. Current law unnecessarily restricts discovery access by requiring proof of prior attempts to obtain materials from trial counsel. Additionally, it does not guarantee access to all materials that could demonstrate innocence or support a reduced sentence.

Under existing law, individuals convicted of serious or violent felonies, resulting in a sentence of 15 years or more, may petition the court for access to discovery materials when filing a post-conviction writ of habeas corpus or a motion to vacate judgment. The petitioner must demonstrate that they attempted to obtain these materials from trial counsel and were unsuccessful.

Discovery materials include evidence the defendant would have been entitled to at trial, but existing law does not require disclosure of potentially exculpatory or mitigating evidence discovered post-trial nor jury selection notes.

Many wrongful convictions have been overturned after new evidence—often long hidden in police or prosecution files—was uncovered. However, the process for obtaining this evidence is often burdensome and inequitable, leaving many incarcerated individuals without meaningful access to materials that could prove their innocence. In the case of Obie Anthony, a

California exonerated person who spent 17 years wrongfully incarcerated for a murder he did not commit, post-conviction discovery access allowed Obie's legal team to obtain police and prosecution records that had been previously withheld. These records showed that:

- The prosecution's key witness had received favorable treatment in exchange for his testimony.
- Witnesses who could have contradicted the false testimony were never called to testify.

Expanding post-conviction discovery will enhance transparency, accountability, and fairness, ensuring that wrongful convictions are corrected and trust in the justice system is restored.

AB 1836:

- expands discovery access to all individuals convicted of felonies resulting in a sentence of one year or more;
- eliminates the requirement that defendants first seek discovery from trial counsel;
- broadens the definition of "discovery materials" to include evidence that negates guilt, mitigates the offense or sentence, or would be favorable to the defendant, and jury selection notes; and
- requires trial counsel to retain digital color copies of all case files for felony convictions on or after July 1, 2026

Support:

California Innocence Coalition

Contact:

Jim Metropulos
Office of Assemblymember Nick Schultz
916.319.2044
jim.metropulos@asm.ca.gov