

June 8, 2016

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

LAO
75
YEARS OF
SERVICE

**Criminal Sentences. Juvenile
Criminal Proceedings and
Sentencing.
Initiative Constitutional
Amendment and Statute.**

Presented to:

Assembly Public Safety Committee

Hon. Reginald B. Jones-Sawyer, Sr., Chair

and

Senate Public Safety Committee

Hon. Loni Hancock, Chair





LAO Role in Initiative Process



Fiscal Analysis Prior to Signature Collection

- State law requires our office to work with the Department of Finance to prepare a joint impartial fiscal analysis of each initiative before it can be circulated for signatures. State law requires that this analysis provide an estimate of the measure's fiscal impact on the state and local governments.
- The fiscal analysis must be submitted to the Attorney General within 50 calendar days from the initiative's submission date. A summary of the estimated fiscal impact is included on petitions that are circulated for signatures.



Analyses After Measure Receives Sufficient Signatures to Qualify for the Ballot

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the statewide voter information guide, including a description of the measure and its fiscal effects.
- We are currently in the process of preparing these materials.



Background on Parole Consideration and Sentencing Credits



Parole Consideration

- ***Indeterminate Sentencing.*** Indeterminately sentenced inmates receive a sentence range, such as 25-years-to-life, and typically appear before the state Board of Parole Hearings (BPH) for a parole consideration hearing in order to be granted release from prison.
- ***Determinate Sentencing.*** Most inmates receive determinate sentences. These inmates receive fixed prison terms and do not need a parole consideration hearing to be released from prison. However, certain determinately sentenced inmates can have parole consideration hearings before they have served their entire sentence. For example, inmates who committed their crime before the age of 23 and receive a determinate sentence are eligible for parole consideration hearings in the 15th year of their sentence.



Sentencing Credits

- ***Credits Reduce Time Inmates Serve.*** Under existing state law, the California Department of Corrections and Rehabilitation (CDCR) can award credits to prison inmates that reduce the time they must serve. The credits are provided for good behavior, or for participating in work, training, or education programs. Inmates can reduce their sentence by as much as one-half through these credits.
- ***Restrictions on Credit Earning.*** State law restricts the amount of credits that certain inmates can earn. For example, the most inmates convicted of using a firearm while committing certain crimes can reduce their sentences with credits is 15 percent.

Background on Juvenile Justice



Youths in Juvenile Court

- Individuals accused of committing crimes when they were under 18 are generally tried in juvenile court, which differs from adult court. For example, rather than sentencing youths to a set term of incarceration, juvenile court judges determine the appropriate placement and treatment for them, based on factors like the youths' offenses and prior records.
- Counties are generally responsible for the youths placed by juvenile courts. These youth are typically allowed to remain with their families. However, some are placed elsewhere, such as in county-run camps.
- Judges can place youth that commit certain major crimes (such as murder, robbery, and certain sex offenses) in a facility operated by the state Division of Juvenile Justice (DJJ). Counties must pay a portion of the cost of housing these youth. Youths released from DJJ are generally supervised by county probation officers.



Youths in Adult Court

- Individuals accused of committing crimes when they were 14 or older can end up in adult criminal court in one of the following ways:
 - ***Fitness Hearing.*** A prosecutor can request a fitness hearing where a juvenile court judge decides if a youth should go to adult court. If the crime occurred when the youth was age 14 or 15, it must be one of certain major crimes (such as murder, robbery, or certain sex offenses). If the youth was age 16 or 17, the prosecutor can seek this hearing for any crime, but typically only does so for more serious crimes or for youths with a significant criminal history.



Background on Juvenile Justice (Continued)

- **Direct Filing.** If a youth has a significant criminal history and/or is accused of certain crimes (such as murder), a prosecutor can “direct file” charges in adult court with no fitness hearing. There are more circumstances for which youths accused of committing crimes when they were age 16 or 17 can be subject to direct filings.
- **Mandatory Filing.** If a youth is accused of committing murder or certain sex offenses with aggravating special circumstances (such as also being accused of torture), he or she must be tried in adult court.
- Youths convicted in adult court when they are under age 18 are typically initially held in DJJ. When they turn age 18, they are generally transferred to state prison. However, if they can complete their sentence before age 21, they remain in DJJ. The state pays the cost of housing youths sent by adult courts to DJJ. After release, these youth are generally supervised by state parole agents.



Provisions of Proposed Initiative



Parole Consideration for Non-Violent Offenders.

- The measure amends the State Constitution to specify that any prison inmate convicted of a non-violent felony offense shall be eligible for parole consideration after completing the term for his or her primary offense. The measure authorizes CDCR to adopt regulations to implement this change.
- Under the measure, the primary offense is the longest term imposed excluding any additional terms added to an offender's sentence, which include any sentencing enhancements (such as the additional time an inmate serves for prior felony convictions).
- As a result, non-violent offenders could be released after serving the term for their primary offense.



Authority to Award Credits

- The measure amends the State Constitution to specify that CDCR shall have the authority to award credits to inmates for good behavior and rehabilitative or educational achievements. The measure authorizes CDCR to adopt regulations to implement this change.
- As a result, CDCR could authorize credits beyond the current limits.



Provisions of Proposed Initiative *(Continued)*



Juvenile Transfer Hearings

- The measure modifies statute to require that all youths have a hearing in juvenile court before they can be transferred to adult court.
- The measure specifies that hearings to transfer youths to adult court could only be sought for (1) youths accused of committing certain major crimes (such as murder, robbery, and certain sex offenses) when they were age 14 or 15 and (2) youths accused of committing a felony when they were age 16 or older.
- As a result, prosecutors could not file charges directly in adult court and no youths would have their cases heard in adult court on a mandatory basis. Accordingly, there may be fewer youth tried in adult court and these youth would likely be subject to shorter terms.

Major Fiscal Effects



Parole Consideration for Non-Violent Offenders

- **Net State Savings.** If non-violent offenders serve shorter terms in prison, it would reduce state costs as the size of the prison population would decline. These savings would be partially offset by a couple of factors. First, BPH would experience costs associated with considering inmates for parole. Second, if serious offenders are released early, the state could experience increased parole costs for roughly a decade. In total, net state savings would likely be in the tens of millions of dollars annually on an ongoing basis. In the short term, the net savings would likely be higher.
- **County Costs.** If nonserious, non-violent offenders—who are supervised by county probation officers following release—are released early, it would temporarily increase county costs to supervise them. These costs could range between the millions and tens of millions of dollars annually for a few years.



Credits for Prison Inmates

- **Net State Savings.** If CDCR grants additional credits, the size of the prison population would decline, resulting in a reduction in state correctional costs. If the additional credits expedited the release of serious or violent offenders, the above prison savings would be partially offset by increased parole costs for a period of years. The fiscal effect would depend on how much sentence lengths were reduced. For example, if CDCR only granted a minor increase in credits, the net savings would be minimal. However, if the department reduced sentences by a few months on average, the measure could result in net state savings reaching the low hundreds of millions of dollars annually.
- **County Costs.** If the additional credits expedited the prison release of nonserious, non-violent offenders, it would temporarily increase county costs to supervise them in the community. These costs could range from minor to the tens of millions of dollars annually for a period of years.

**Major Fiscal Effects of Changes to Juvenile Justice**

- **Net State Savings.** If fewer youths are tried and convicted in adult court, the measure would reduce state costs as these youths would no longer spend any time in prison or be supervised by state parole agents. In addition, because juvenile court proceedings are generally shorter than adult court proceedings, it would reduce state court costs. These savings would be partially offset as these youth would generally spend more time in DJJ. However, a portion of these costs would be paid for by counties. In total, the net state savings could be around a few million dollars annually.
- **Net County Costs.** If fewer youths are tried and convicted as adults, it would increase county costs as counties would pay a portion of the costs of housing these youth in DJJ and county probation departments would supervise these youths following their release. Because juvenile court proceedings are generally shorter than adult court proceedings, the above county costs would be partially offset by savings related to (1) youth spending less time in juvenile hall during the proceedings and (2) reduced workload for district attorneys and public defenders. In total, we estimate that the net costs to counties due to the above effects could be a few million dollars annually.