



July 19, 2017

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative regarding the consideration of parole for certain inmates over 80 years of age (A.G. File No. 17-0006).

Background

Parole Consideration Hearings. Individuals are placed in state prison under an indeterminate sentence or a determinate sentence. Under indeterminate sentencing, individuals receive a sentence range, such as 25-years-to-life, and typically receive a parole consideration hearing from the state Board of Parole Hearings (BPH) after serving all but one year of their minimum sentence to determine whether the individual is ready to be released from prison after the entire minimum sentence is served. If BPH decides not to release the individual from prison, the board conducts a subsequent hearing in the future. Under determinate sentencing, individuals receive fixed prison terms with specified release dates and do not need a parole consideration hearing to be released from prison at the end of their sentence. However, some of these individuals currently are eligible for parole consideration hearings before they have served their entire sentence.

Court-Ordered Elderly Parole Process. In 2014, a federal court ordered the state to take a number of measures to reduce the size of the prison population, including requiring the state to implement an “elderly parole” process. Under the court-ordered elderly parole process, individuals 60 years of age or older who have served at least 25 years of their sentences are eligible for a BPH parole consideration hearing. BPH is required to give special consideration to an inmate’s age, length of incarceration, and physical condition. If BPH decides not to release the inmate from prison, the board conducts a subsequent hearing in the future. In 2015-16, there were 658 elderly parole consideration hearings scheduled. Of those hearings, 154 (23 percent) resulted in BPH granting parole. Individuals who are granted parole and released are supervised by state parole agents or county probation departments depending on the crime they committed. If the federal court order requiring the elderly parole process expires, the authority for this

elderly parole process would also expire. This is because the court-ordered elderly parole process is currently not established in existing state law.

Proposal

This measure amends statute to establish an elderly parole process, which would differ somewhat from the current court-ordered elderly parole process. Specifically, under the measure, certain individuals who reach 80 years of age or older and have served at least ten years of their sentence would be eligible for a BPH parole consideration hearing. The measure specifies that condemned inmates, inmates serving sentences of life without the possibility of parole, and inmates who are prohibited from being paroled by other voter initiatives would not be eligible to participate in the elderly parole process. The measure requires BPH to give special consideration to whether age, length of incarceration, and physical condition have reduced the inmate's risk for future criminal activity.

Fiscal Effects

Fiscal Effects Depend on Certain Key Factors. This measure would have various fiscal effects on state and local governments. However, the magnitude of these effects would depend on certain factors. First, the number of additional individuals who would receive parole consideration hearings due to the measure is uncertain. For example, it is unclear the extent that the current court-ordered elderly parole process will continue in the future. For the purpose of this analysis, we assume that the court-ordered process would continue. We also note that it is unclear how many individuals would be prohibited from being paroled by other voter initiatives. Based on limited data available, we estimate that less than 100 additional individuals annually would receive parole consideration hearings due to this measure. Second, the number of individuals released from prison as a result of the elderly parole process established by the measure would depend on how the measure is interpreted and implemented, particularly, the extent to which BPH grants eligible inmates elderly parole.

Net State Savings. The measure would result in savings to the extent individuals granted parole under the new elderly parole process serve shorter prison terms. State prison costs (including costs related to medical care for these individuals) would be reduced as the size of the prison population would decline somewhat. However, these savings would be partially offset by a couple of factors. First, BPH would experience additional costs to conduct more parole consideration hearings. Second, the state would likely incur additional costs to provide certain health and social services to individuals released under the measure, such as through Medi-Cal—the state's program to provide health care services to low-income individuals. Finally, the measure would result in a minor increase in parole costs to supervise those individuals who are released from prison earlier than otherwise. We estimate that the net savings to the state would likely be in the hundreds of thousands of dollars annually.

Minor County Costs. Given that some individuals who could be released as a result of the measure would be supervised by county probation departments, the measure would also increase the size of the probation population somewhat resulting in minor county costs.

Summary of Fiscal Effects. We estimate that this measure would have the following fiscal effects:

- Net state savings likely in the hundreds of thousands of dollars annually, primarily due to individuals serving shorter prison terms.
- Minor county costs due to an increase in the probation population.

Sincerely,

Mac Taylor
Legislative Analyst

Michael Cohen
Director of Finance