

September 23, 2008

# **Proposition 9: Victims' Bill of Rights Act of 2008: Marsy's Law**

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LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Public Safety Committee

Hon. Gloria Romero, Chair

Assembly Public Safety Committee

Hon. Jose Solorio, Chair





## Major Provisions of Proposition 9

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### **Expands Legal Rights of Crime Victims and Restitution**

- Expands crime victims' rights to participate in all public proceedings and other aspects of the criminal justice process, such as conferring with prosecutors on the charges filed.
- Requires criminal justice agencies to provide notification to crime victims about their rights and various criminal justice proceedings.
- Adds existing crime victims' rights to the State Constitution, like the right to a speedy return of property when it is no longer needed as evidence.
- Requires (1) restitution be ordered from offenders convicted in a case in which a crime victim suffers a loss and (2) restitution debts be satisfied prior to other court-ordered debt.



### **Restricts Early Release of Inmates**

- Requires that criminal sentences imposed by the courts not be "substantially diminished" by early release policies to alleviate overcrowding in prisons or jails.
- Generally requires the Legislature and county boards of supervisors to provide sufficient funding to house inmates for the full terms of their sentences.



## Major Provisions of Proposition 9 *(Continued)*

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### Changes Procedures for Granting and Revoking Parole

- Extends the time (from between 1 and 5 years to between 3 and 15 years) that individuals with a life sentence who are denied parole must generally wait for another parole consideration hearing. Also increases the number of people who can attend and testify at such hearings with victims.
- Extends the deadline (from 10 days to 15 days) for probable cause hearings to take place after parolees are charged with violating their parole. Also extends the deadline (from 35 days to 45 days) for parole revocation hearings. These changes may conflict with a federal court order in *Valdivia v. Schwarzenegger*.
- Limits state-appointed counsel to parolees who are indigent and cannot defend themselves, which may also conflict with the *Valdivia* court order.



## Fiscal Effects of Proposition 9

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### State and County Fiscal Impacts of Early Release Restrictions

- Since the state does not release inmates early from prison, the measure would have no fiscal effect on prisons. However, there could be a future loss of savings in the hundreds of millions of dollars annually if it prevents the enactment of an early release program to address prison overcrowding.
- Although some counties release inmates early from jail, the overall cost of this provision for counties is unknown. This would depend on how potential legal issues surrounding the early release restrictions are resolved and how counties comply with them.



### Potential Net Savings From Changes in Parole Procedures

- A reduction in the number of parole hearings received by inmates serving life terms would likely result in state savings amounting to millions of dollars annually.
- Additional annual savings in the low tens of millions of dollars could also occur unless the proposed parole revocation changes are found to conflict with the *Valdivia* court order.



### Changes in Restitution Funding and Other Fiscal Impacts

- Since the measure requires all monies collected from a defendant first be applied to pay restitution to the crime victim, the availability of such revenues to support various state and local programs could be reduced. However, the measure may generate savings if increased restitution payments to crime victims cause them to require fewer state and local services.
- State and local agencies could incur additional costs due to lengthier hearings and increased notification requirements.
- The net fiscal impact of the changes in restitution funding and provisions affecting crime victims' rights is unknown.