Senate Committee on Public Safety
Senator Nancy Skinner, Chair

Assembly Committee on Public Safety
Hon. Reginald Byron Jones-Sawyer, Sr., Chair

Joint Informational Hearing

Proposed Initiative: #1840 Restricts Parole for Non-Violent Offenders. Authorizes Felony Sentences for Certain Offenses Currently Treated Only as Misdemeanors.

Tuesday, February 11, 2020
9:00 a.m.
State Capitol, John L. Burton Hearing Room (4203)
Sacramento, CA 95814

Language of Initiative

17-0044 Amdt. # 1

Date: 11/14/2017

Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

Re: Initiative No. 17-0044 – Amendment # 1

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment #1 to Initiative No. 17-0044. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

For purposes of inquiries from the public and the media, please direct them as follows:

Charles H. Bell, Jr.
455 Capitol Mall, Suite 600
Sacramento, CA 95814
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(916) 442-7757

Thank you for your time and attention processing my request.

Sincerely,

Nina Salarno Besselman

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

SEC. 1. TITLE

This act shall be known and may be cited as the Reducing Crime and Keeping California Safe Act of 2018.

SEC. 2. PURPOSES

This measure will fix three related problems created by recent laws that have threatened the public safety of Californians and their children from violent criminals. This measure will:
A. Reform the parole system so violent felons are not released early from prison, strengthen oversight of post release community supervision and tighten penalties for violations of terms of post release community supervision;
B. Reform theft laws to restore accountability for serial thieves and organized theft rings; and
C. Expand DNA collection from persons convicted of drug, theft and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

SEC. 3. FINDINGS AND DECLARATIONS

A. Prevent Early Release of Violent Felons
1. Protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters and other violent criminals should not be released early from prison.
2. Since 2014, California has had a larger increase in violent crime than the rest of the United States. Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI.
3. Recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "non-violent offenders."
4. As a result, these so-called "non-violent" offenders are eligible for early release from prison after serving only a fraction of the sentence ordered by a judge.
5. Violent offenders are also being allowed to remain free in our communities even when they commit new crimes and violate the terms of their post release community supervision, like the gang member charged with the murder of Whittier Police Officer, Keith Boyer.
6. Californians need better protection from such violent criminals.
7. Californians need better protection from felons who repeatedly violate the terms of their post release community supervision.
8. This measure reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations.
9. Californians need better protection from such violent criminals. This measure reforms the law to define such crimes as "violent felonies" for purposes of early release.

10. Nothing in this act is intended to create additional "strike" offenses which would increase the state prison population.
11. Nothing in this act is intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits.
B. Restore Accountability for Serial Theft and Organized Theft Rings
1. Recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal.
2. As a result, between 2014 and 2016, California had the 2nd highest increase in theft and property crimes in the United States, while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was $2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least ten years.
3. Individuals who repeatedly steal often do so to support their drug habit. Recent changes to California law have reduced judges' ability to order individuals convicted of repeated theft crimes into effective drug treatment programs.
4. California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs. This measure enacts such reforms.
C. Restore DNA Collection to Solve Violent Crime
1. Collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes including murder, rape and robbery have gone unsolved because DNA is being collected from fewer criminals.
2. DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys that occurred three decades ago in Los Angeles County. DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape-murder of an 83-year-old woman.
3. Recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes. This measure restores DNA collection from persons convicted for such offenses.
4. Permitting collection of more DNA samples will help identify suspects, clear the innocent and free the wrongly convicted.
5. This measure does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted or are found innocent.

SEC. 4. PAROLE CONSIDERATION

Section 3003 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.
(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of

parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:
(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.
(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.
(3) The verified existence of a work offer, or an educational or vocational training program.
(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.
(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.
(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.
(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.
(e)(1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:
(A) Last, first, and middle names.
(B) Birth date.
(C) Sex, race, height, weight, and hair and eye color.
(D) Date of parole or placement on postrelease community supervision and discharge.
(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.
(F) California Criminal Information Number, FBI number, social security number, and driver's license number.
(G) County of commitment.
(H) A description of scars, marks, and tattoos on the inmate.
(I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.
(J) Address, including all of the following information:
(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.
(ii) City and ZIP Code.
(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.
(K) Contact officer and unit, including all of the following information:
(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.
(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.
(M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.
(N) Copies of the record of supervision during any prior period of parole.
(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or his or her designee, determines that this provision is not preempted by HIPAA.
(3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.
(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.
(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.
(f) Notwithstanding any other law, ~~an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, and paragraph (16) of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on a person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9,~~ if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of ~~a victim or witness.~~ the victim or witness, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:
(1) A violent felony as defined subdivision (c) of Section 667.5 or subdivision (a) of Section 3040.1.
(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.
(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-

half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.
(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in his or her county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.
(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.
(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).
(k)(1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include all records of supervision, the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.
(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.
(l) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

Section 3040.1 is added to the Penal Code to read:
(a) For purposes of early release or parole consideration under the authority of Section 32 of Article I of the Constitution, Sections 12838.4 and 12838.5 of the Government Code, Sections 3000.1, 3041.5, 3041.7, 3052, 5000, 5054, 5055, 5076.2 of this Code and the rulemaking authority granted by Section 5058 of this Code, the following shall be defined as "violent felony offenses":
(1) Murder or voluntary manslaughter;

(2) Mayhem;
(3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262;
(4) Sodomy as defined in subdivision (c) or (d) of Section 286;
(5) Oral copulation as defined in subdivision (c) or (d) of Section 288a;
(6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288;
(7) Any felony punishable by death or imprisonment in the state prison for life;
(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55;
(9) Any robbery;
(10) Arson, in violation of subdivision (a) or (b) of Section 451;
(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289;
(12) Attempted murder;
(13) A violation of Section 18745, 18750, or 18755;
(14) Kidnapping;
(15) Assault with the intent to commit a specified felony, in violation of Section 220;
(16) Continuous sexual abuse of a child, in violation of Section 288.5;
(17) Carjacking, as defined in subdivision (a) of Section 215;
(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1;
(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22;
(20) Threats to victims or witnesses, as defined in subdivision (c) of Section 136.1;
(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary;
(22) Any violation of Section 12022.53;
(23) A violation of subdivision (b) or (c) of Section 11418;
(24) Solicitation to commit murder;
(25) Felony assault with a firearm in violation of subsections (a)(2) and (b) of Section 245;
(26) Felony assault with a deadly weapon in violation of paragraph (1) of subdivision (a) of Section 245;
(27) Felony assault with a deadly weapon upon the person of a peace officer or firefighter in violation of subdivisions (c) and (d) of Section 245;
(28) Felony assault by means of force likely to produce great bodily injury in violation of paragraph (4) of subdivision (a) of Section 245;
(29) Assault with caustic chemicals in violation of Section 244;
(30) False imprisonment in violation of Section 210.5;
(31) Felony discharging a firearm in violation of Section 246;
(32) Discharge of a firearm from a motor vehicle in violation of subsection (c) of Section 26100;
(33) Felony domestic violence resulting in a traumatic condition in violation of Section 273.5;
(34) Felony use of force or threats against a witness or victim of a crime in violation of Section 140;

(35) Felony resisting a peace officer and causing death or serious injury in violation of Section 148.10;
(36) A felony hate crime punishable pursuant to Section 422.7;
(37) Felony elder or dependent adult abuse in violation of subdivision (b) of Section 368;
(38) Rape in violation of paragraphs (1), (3), or (4) of subdivision (a) of Section 261;
(39) Rape in violation of Section 262;
(40) Sexual penetration in violation of subdivision (b), (d) or (e) of Section 289;
(41) Sodomy in violation of subdivision (f), (g), or (i) of Section 286;
(42) Oral copulation in violation of subdivision (f), (g), or (i) of Section 288a;
(43) Abduction of a minor for purposes of prostitution in violation of Section 267;
(44) Human trafficking in violation of subdivision (a), (b), or (c) of Section 236.1;
(45) Child abuse in violation of Section 273ab;
(46) Possessing, exploding, or igniting a destructive device in violation of Section 18740;
(47) Two or more violations of subsection (c) of Section 451;
(48) Any attempt to commit an offense described in this subdivision;
(49) Any felony in which it is pled and proven that the Defendant personally used a dangerous or deadly weapon;
(50) Any offense resulting in lifetime sex offender registration pursuant to Sections 290 through 290.009.
(51) Any conspiracy to commit an offense described in this Section.
(b) The provisions of this section shall apply to any inmate serving a custodial prison sentence on or after the effective date of this section, regardless of when the sentence was imposed.

Section 3040.2 is added to the Penal Code to read:
(a) Upon conducting a nonviolent offender parole consideration review, the hearing officer for the Board of Parole Hearings shall consider all relevant, reliable information about the inmate.
(b) The standard of review shall be whether the inmate will pose an unreasonable risk of creating victims as a result of felonious conduct if released from prison.
(c) In reaching this determination, the hearing officer shall consider the following factors:
(1) Circumstances surrounding the current conviction;
(2) The inmate's criminal history, including involvement in other criminal conduct, both juvenile and adult, which is reliably documented;
(3) The inmate's institutional behavior including both rehabilitative programming and institutional misconduct;
(4) Any input from the inmate, any victim, whether registered or not at the time of the referral, and the prosecuting agency or agencies;
(5) The inmate's past and present mental condition as documented in records in the possession of the Department of Corrections and Rehabilitation;
(6) The inmate's past and present attitude about the crime;
(7) Any other information which bears on the inmate's suitability for release.
(d) The following circumstances shall be considered by the hearing officer in determining whether the inmate is unsuitable for release:
(1) Multiple victims involved in the current commitment offense;
(2) A victim was particularly vulnerable due to age or physical or mental condition;
(3) The inmate took advantage of a position of trust in the commission of the crime;

(4) The inmate was armed with or used a firearm or other deadly weapon in the commission of the crime;
(5) A victim suffered great bodily injury during the commission of the crime;
(6) The inmate committed the crime in association with a criminal street gang;
(7) The inmate occupied a position of leadership or dominance over other participants in the commission of the crime, or the inmate induced others to participate in the commission of the crime;
(8) During the commission of the crime, the inmate had a clear opportunity to cease but instead continued;
(9) The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the inmate is currently committed to prison;
(10) The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime;
(11) The inmate was on probation, parole, post release community supervision, mandatory supervision or was in custody or had escaped from custody at the time of the commitment offense;
(12) The inmate was on any form of pre- or post-conviction release at the time of the commitment offense;
(13) The inmate's prior history of violence, whether as a juvenile or adult;
(14) The inmate has engaged in misconduct in prison or jail;
(15) The inmate is incarcerated for multiple cases from the same or different counties or jurisdictions.
(e) The following circumstances shall be considered by the hearing officer in determining whether the inmate is suitable for release:
(1) The inmate does not have a juvenile record of assaulting others or committing crimes with a potential of harm to victims;
(2) The inmate lacks any history of violent crime;
(3) The inmate has demonstrated remorse;
(4) The inmate's present age reduces the risk of recidivism;
(5) The inmate has made realistic plans if released or has developed marketable skills that can be put to use upon release;
(6) The inmate's institutional activities demonstrate an enhanced ability to function within the law upon release;
(7) The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense;
(8) The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission;
(9) The inmate has a minimal or no criminal history;
(10) The inmate was a passive participant or played a minor role in the commission of the crime;
(11) The crime was committed during or due to an unusual situation unlikely to reoccur.

Section 3040.3 is added to the Penal Code to read:
(a) An inmate whose current commitment includes a concurrent, consecutive or stayed sentence for an offense or allegation defined as violent by subdivision (c) of Section 667.5 or 3040.1 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.

(b) An inmate whose current commitment includes an indeterminate sentence shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.
(c) An inmate whose current commitment includes any enhancement which makes the underlying offense violent pursuant to subdivision (c) of Section 667.5 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.
(d) For purposes of Section 32 of Article I of the Constitution, the "full term" of the "primary offense" shall be calculated based only on actual days served on the commitment offense.

Section 3040.4 is added to the Penal Code to read:
Pursuant to subsection (b) of Section 28 of Article I of the Constitution, the Department shall give reasonable notice to victims of crime prior to an inmate being reviewed for early parole and release. The Department shall provide victims with the right to be heard regarding early parole consideration and to participate in the review process. The Department shall consider the safety of the victims, the victims' family, and the general public when making a determination on early release.
(a) Prior to conducting a review for early parole, the Department shall provide notice to the prosecuting agency or agencies and to registered victims, and shall make reasonable efforts to locate and notify victims who are not registered.
(b) The prosecuting agency shall have the right to review all information available to the hearing officer including, but not limited to the inmate's central file, documented adult and juvenile criminal history, institutional behavior including both rehabilitative programming and institutional misconduct, any input from any person or organization advocating on behalf of the inmate, and any information submitted by the public.
(c) A victim shall have a right to submit a statement for purposes of early parole consideration, including a confidential statement.
(d) All prosecuting agencies, any involved law enforcement agency, and all victims, whether or not registered, shall have the right to respond to the board in writing.
(e) Responses to the Board by prosecuting agencies, law enforcement agencies, and victims must be made within 90 days of the date of notification of the inmate's eligibility for early parole review or consideration.
(f) The Board shall notify the prosecuting agencies, law enforcement agencies, and the victims of the Nonviolent Offender Parole decision within 10 days of the decision being made.
(g) Within 30 days of the notice of the final decision concerning Nonviolent Offender Parole Consideration, the inmate and the prosecuting agencies may request review of the decision.
(h) If an inmate is denied early release under the Nonviolent Offender Parole provisions of Section 32 of Article I of the Constitution, the inmate shall not be eligible for early Nonviolent Offender parole consideration for two (2) calendar years from the date of the final decision of the previous denial.

Section 3041 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a)(1) In the case of any inmate sentenced pursuant to any law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each inmate during the sixth year before the inmate's minimum eligible parole date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole

eligibility. During this consultation, the board shall provide the inmate information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the inmate regarding his or her work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the inmate in writing.

(2) One year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner.

(3) In the event of a tie vote, the matter shall be referred for an en banc review of the record that was before the panel that rendered the tie vote. Upon en banc review, the board shall vote to either grant or deny parole and render a statement of decision. The en banc review shall be conducted pursuant to subdivision (e).

(4) Upon a grant of parole, the inmate shall be released subject to all applicable review periods. However, an inmate shall not be released before reaching his or her minimum eligible parole date as set pursuant to Section 3046 unless the inmate is eligible for earlier release pursuant to his or her youth offender parole eligibility date or elderly parole eligibility date.

(5) At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole for an en banc hearing by the board. In case of a review, a majority vote in favor of parole by the board members participating in an en banc review is required to grant parole to any inmate.

(b)(1) The panel or the board, sitting en banc, shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. The panel or the board, sitting en banc, shall consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.

(2) After July 30, 2001, any decision of the parole panel finding an inmate suitable for parole shall become final within 120 days of the date of the hearing. During that period, the board may review the panel's decision. The panel's decision shall become final pursuant to this subdivision unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. In making this determination, the board shall consult with the commissioners who conducted the parole consideration hearing.

(3) A decision of a panel shall not be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting.

(c) For the purpose of reviewing the suitability for parole of those inmates eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each inmate until the time the person is released pursuant to proceedings or reaches the expiration of his or her term as calculated under Section 1170.2.

(d) It is the intent of the Legislature that, during times when there is no backlog of inmates awaiting parole hearings, life parole consideration hearings, or life rescission hearings, hearings

will be conducted by a panel of three or more members, the majority of whom shall be commissioners. The board shall report monthly on the number of cases where an inmate has not received a completed initial or subsequent parole consideration hearing within 30 days of the hearing date required by subdivision (a) of Section 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless the inmate has waived the right to those timeframes. That report shall be considered the backlog of cases for purposes of this section, and shall include information on the progress toward eliminating the backlog, and on the number of inmates who have waived their right to the above timeframes. The report shall be made public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature quarterly.
(e) For purposes of this section, an en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. An en banc review shall be conducted in compliance with the following:
(1) The commissioners conducting the review shall consider the entire record of the hearing that resulted in the tie vote.
(2) The review shall be limited to the record of the hearing. The record shall consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. New evidence or comments shall not be considered in the en banc proceeding.
(3) The board shall separately state reasons for its decision to grant or deny parole.
(4) A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.

Section 3454 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.
(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services, determine appropriate incentives, and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate, structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a city or county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.
(c) As used in this title, "flash incarceration" is a period of detention in a city or county jail due to a violation of an offender's conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary

more frequent, periods of detention for violations of an offender's postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.
(d) Upon a decision to impose a period of flash incarceration, the probation department shall notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.

Section 3455 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, or if the supervised person has violated the terms of his or her release for a third time, the supervising county agency shall petition the court pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease community supervision, waive a court hearing, and accept the proposed modification of his or her postrelease community supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease community supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease community supervision, the revocation hearing officer shall have authority to do all of the following:
(1) Return the person to postrelease community supervision with modifications of conditions, if appropriate, including a period of incarceration in a county jail.
(2) Revoke and terminate postrelease community supervision and order the person to confinement in a county jail.
(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.
(b) (1) At any time during the period of postrelease community supervision, if a peace officer, including a probation officer, has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, or has failed to appear at a hearing pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision, the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.
(2) The court or its designated hearing officer shall have the authority to issue a warrant for a person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.

(3) Unless a person subject to postrelease community supervision is otherwise serving a period of flash incarceration, whenever a person who is subject to this section is arrested, with or without a warrant or the filing of a petition for revocation, the court may order the release of the person under supervision from custody under any terms and conditions the court deems appropriate.
(c) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Except as provided in paragraph (3) of subdivision (b), based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or that the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending the first court appearance on a petition to revoke postrelease community supervision, and upon that determination, may order the person confined pending his or her first court appearance.
(d) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in a county jail for each custodial sanction.
(e) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease community supervision, except when his or her supervision is tolled pursuant to Section 1203.2 or subdivision (b) of Section 3456.

SEC. 5. DNA COLLECTION

Section 296 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) The following persons shall provide buccal swab samples, right thumbprints, and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to this chapter for law enforcement identification analysis:
(1) Any person, including any juvenile, who is convicted of or pleads guilty or no contest to any felony offense, or is found not guilty by reason of insanity of any felony offense, or any juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense.
(2) Any adult person who is arrested for or charged with any of the following felony offenses:
(A) Any felony offense specified in Section 290 or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.
(B) Murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.
(C) Commencing on January 1, 2009, any adult person arrested or charged with any felony offense.
(3) Any person, including any juvenile, who is required to register under Section 290 through 290.009 or 457.1 because of the commission of, or the attempt to commit, a felony or misdemeanor offense, or any person, including any juvenile, who is housed in a mental health facility or sex offender treatment program after referral to such facility or program by a court after being charged with any felony offense.

(4) Any person, excluding a juvenile, who is convicted of, or pleads guilty or no contest to, any of the following offenses:
(A) A misdemeanor violation of Section 459.5;
(B) A violation of subdivision (a) of Section 473 that is punishable as a misdemeanor pursuant to subdivision (b) of Section 473;
(C) A violation of subdivision (a) of Section 476a that is punishable as a misdemeanor pursuant to subdivision (b) of Section 476a;
(D) A violation of Section 487 that is punishable as a misdemeanor pursuant to Section 490.2;
(E) A violation of Section 496 that is punishable as a misdemeanor;
(F) A misdemeanor violation of subdivision (a) of Section 11350 of the Health and Safety Code;
(G) A misdemeanor violation of subdivision (a) of Section 11377 of the Health and Safety Code;
(H) A misdemeanor violation of paragraph (1) of subdivision (e) of Section 243;
(I) A misdemeanor violation of Section 273.5;
(J) A misdemeanor violation of paragraph (1) of subdivision (b) of Section 368;
(K) Any misdemeanor violation where the victim is defined as set forth in Section 6211 of the Family Code;
(L) A misdemeanor violation of paragraph (3) of subdivision (b) of Section 647.
~~(4)~~(5) The term "felony" as used in this subdivision includes an attempt to commit the offense.
~~(5)~~(6) Nothing in this chapter shall be construed as prohibiting collection and analysis of specimens, samples, or print impressions as a condition of a plea for a non-qualifying offense.
(b) The provisions of this chapter and its requirements for submission of specimens, samples and print impressions as soon as administratively practicable shall apply to all qualifying persons regardless of sentence imposed, including any sentence of death, life without the possibility of parole, or any life or indeterminate term, or any other disposition rendered in the case of an adult or juvenile tried as an adult, or whether the person is diverted, fined, or referred for evaluation, and regardless of disposition rendered or placement made in the case of juvenile who is found to have committed any felony offense or is adjudicated under Section 602 of the Welfare and Institutions Code.
(c) The provisions of this chapter and its requirements for submission of specimens, samples, and print impressions as soon as administratively practicable by qualified persons as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:
(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.
(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.
(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.
(d) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, or any admission to any of the offenses described in subdivision (a).

(e) If at any stage of court proceedings the prosecuting attorney determines that specimens, samples, and print impressions required by this chapter have not already been taken from any person, as defined under subdivision (a) of Section 296, the prosecuting attorney shall notify the court orally on the record, or in writing, and request that the court order collection of the specimens, samples, and print impressions required by law. However, a failure by the prosecuting attorney or any other law enforcement agency to notify the court shall not relieve a person of the obligation to provide specimens, samples, and print impressions pursuant to this chapter.
(f) Prior to final disposition or sentencing in the case the court shall inquire and verify that the specimens, samples, and print impressions required by this chapter have been obtained and that this fact is included in the abstract of judgment or dispositional order in the case of a juvenile. The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter.
However, failure by the court to verify specimen, sample, and print impression collection or enter these facts in the abstract of judgment or dispositional order in the case of a juvenile shall not invalidate an arrest, plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

SEC. 6. SHOPLIFTING

Section 459.5 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) Notwithstanding Section 459, shoplifting is defined as entering a commercial establishment with intent to ~~commit larceny~~ steal retail property or merchandise while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars ($950). Any other entry into a commercial establishment with intent to commit larceny is burglary. Shoplifting shall be punished as a misdemeanor, except that a person with one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290 may be punished pursuant to subdivision (h) of Section 1170.
(b) Any act of shoplifting as defined in subdivision (a) shall be charged as shoplifting. No person who is charged with shoplifting may also be charged with burglary or theft of the same property.
(c) "Retail property or merchandise" means any article, product, commodity, item or component intended to be sold in retail commerce.
(d) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.
(e) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

Section 490.2 of the Penal Code is amended to read:
[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]
(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars ($950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.
(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.
(c) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

SEC. 7. SERIAL THEFT

Section 490.3 is added to the Penal Code to read:
(a) This section applies to the following crimes:
(1) petty theft;
(2) shoplifting;
(3) grand theft;
(4) burglary;
(5) carjacking;
(6) robbery;
(7) a crime against an elder or dependent adult within the meaning of subdivision (d) or (e) of Section 368;
(8) any violation of Section 496;
(9) unlawful taking or driving of a vehicle within the meaning of Section 10851 of the Vehicle Code.
(10) Forgery.
(11) The unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e.
(12) Forgery of an access card pursuant to Section 484f.
(13) The unlawful use of an access card pursuant to Section 484g.
(14) Identity theft pursuant to Section 530.5.
(15) The theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.
(b) Notwithstanding subsection (3) of subdivision (h) of Section 1170, subsections (2) and (4) of subdivision (a) of Section 1170.12, subsections (2) and (4) of subdivision (c) of Section 667, any person who, having been previously convicted of two or more of the offenses specified in subdivision (a), which offenses were committed on separate occasions, and who is subsequently convicted of petty theft or shoplifting where the value of the money, labor, or real or personal

property taken exceeds two hundred fifty dollars ($250) shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.
(c) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 8. ORGANIZED RETAIL THEFT

Section 490.4 is added to the Penal Code to read:
(a) "Retail property or merchandise" means any article, product, commodity, item or component intended to be sold in retail commerce.
(b) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.
(c) Any person, who, acting in concert with one or more other persons, commits two (2) or more thefts pursuant to Sections 459.5 or 490.2 of retail property or merchandise having an aggregate value exceeding two hundred fifty dollars ($250) and unlawfully takes such property during a period of one hundred eighty days (180) is guilty of organized retail theft.
(d) Notwithstanding subsection (3) of subdivision (h) of Section 1170, subsections (2) and (4) of subdivision (a) of Section 1170.12, subsections (2) and (4) of subdivision (c) of Section 667, organized retail theft shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.
(e) For purposes of this section, the value of retail property stolen by persons acting in concert may be aggregated into a single count or charge, with the sum of the value of all of the retail merchandise being the values considered in determining the degree of theft.
(f) An offense under this section may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.
(g) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 9. AMENDMENTS

This act shall not be amended by the Legislature except by a statute that furthers the purposes, findings and declarations of the Act and is passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

SEC. 10. SEVERABILITY

If any provision of this Act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SEC. 11. CONFLICTING INITIATIVES

(a) In the event that this measure and another measure addressing parole consideration pursuant to Section 32 of Article I of the Constitution, revocation of parole and post release community supervision, DNA collection, or theft offenses shall appear on the same statewide ballot, the

provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

LAO Report

December 20, 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 (A.G. File No. 17-0044, Amendment No. 1) relating to criminal penalties and DNA collection.

BACKGROUND

Criminal Penalties

Sentencing law generally defines three types of crimes: felonies, misdemeanors, and infractions. A felony is the most severe type of crime. Existing law classifies some felonies as "violent" or "serious," or both. Examples of felonies currently defined as violent include murder, robbery, and rape. While almost all violent felonies are also considered serious, other felonies are defined only as serious, such as assault with intent to commit robbery. Felonies that are not classified as violent or serious include human trafficking and sale of a controlled substance. A misdemeanor is a less severe offense. Misdemeanors include crimes such as assault and public drunkenness. An infraction is the least severe offense and is generally punishable by a fine.

Felony Sentencing. Offenders convicted of felonies can be sentenced to one of the following:

- ***State Prison.*** Felony offenders who have current or prior convictions for serious, violent, or sex crimes can be sentenced to state prison. Offenders who are released from prison after serving a sentence for a serious or violent crime are supervised in the community by state parole agents. Offenders who are released from prison after serving a sentence for a crime that is not a serious or violent crime are usually supervised in the community by county probation officers, which is commonly referred to as Post Release Community Supervision (PRCS). Offenders who break the rules that they are required to follow while supervised in the community or commit new crimes can be sent to county jail or state prison, depending on their criminal history and the seriousness of the offense.

- ***County Jail and/or Community Supervision.*** Felony offenders who have no current or prior convictions for serious, violent, or sex offenses are typically sentenced to county jail or supervision in the community by a county probation officer, or both. In addition, depending on the discretion of the judge and what crime was committed, some offenders who have current or prior convictions for serious, violent, or sex offenses can receive similar sentences. Offenders who break the rules that they are required to follow while supervised in the community or commit new crimes can be sent to county jail or state prison, depending on their criminal history and the seriousness of the offense.

Misdemeanor Sentencing. Under current law, offenders convicted of misdemeanors may be sentenced to county jail, county community supervision, a fine, or some combination of the three. Offenders on county community supervision for a misdemeanor crime may be placed in jail if they break the rules that they are required to follow while supervised in the community.

In general, offenders convicted of misdemeanor crimes are punished less severely than felony offenders. For example, misdemeanor crimes carry a maximum sentence of up to one year in jail while felony offenders can spend much longer periods in prison or jail. In addition, offenders who are convicted of a misdemeanor are usually supervised in the community for fewer years and may not be supervised as closely by probation officers.

Wobbler Sentencing. Under current law, some crimes—such as unauthorized use of a vehicle—can be charged as either a felony or a misdemeanor. These crimes are known as "wobblers." The sentencing decision on wobblers is left to the court and is generally based on the specific circumstances of the crime and the criminal history of the offender.

Release Consideration for Nonviolent Offenders

In November 2016, voters approved Proposition 57, which amended the State Constitution, to specify that any person convicted of a nonviolent felony offense and sentenced to state prison shall be considered for release after completing the full term for his or her primary offense. The primary offense is defined as the longest term imposed excluding any additional terms added to an offender's sentence, including any sentencing enhancements (such as the additional time an inmate serves for prior felony convictions). The State Constitution authorizes the California Department of Corrections and Rehabilitation (CDCR) to adopt regulations to implement this consideration process, which currently restrict the process to certain offenders.

Eligible offenders are reviewed for release by the Board of Parole Hearings (BPH). Specifically, a BPH deputy commissioner reviews the inmate's file to determine if he or she is suitable for release based on information about the inmate, such as the inmate's criminal history. As part of these reviews, district attorneys, law enforcement agencies, and victims can submit letters to BPH regarding the inmate's potential release. To facilitate this process, CDCR contacts victims registered with the state to inform them about their ability to submit such letters. If the deputy commissioner concludes that the inmate does not currently pose an unreasonable risk of violence the inmate is approved for release. If an inmate is denied release, he or she can appeal the decision, and the inmate's file is reviewed by a different deputy commissioner for a final decision. Inmates who are denied release are reconsidered the following year, though they often complete their sentences and are released before this subsequent review takes place. As of

October 31, 2017, BPH has completed over 2,700 reviews and approved nearly 500 offenders (18 percent) for release.

DNA Collection

Under current state law, any adult arrested or charged with a felony offense, any juvenile found guilty of a felony offense, or any individual required to register as a sex offender or arsonist is required to provide DNA samples for law enforcement purposes. The samples are collected by state and local law enforcement agencies, and are generally submitted to the California Department of Justice (DOJ) for processing. DOJ analyzes the samples and stores the DNA profiles in a statewide DNA databank. DOJ also submits the DNA profiles to a national repository maintained by the Federal Bureau of Investigation. This allows law enforcement to compare DNA collected from crime scenes to information in these DNA databanks to identify individuals who were at the crime scene. The cost of collecting and analyzing DNA samples is partially supported by revenue collected from various criminal fines and fees.

PROPOSAL

This measure amends state law to (1) increase penalties for certain theft-related crimes, (2) change the existing nonviolent offender release consideration process, (3) change community supervision practices, and (4) require DNA collection from adults convicted of certain misdemeanors. We describe these changes in greater detail below.

Increases Penalties for Certain Theft-Related Crimes. Under current law, theft of money or property worth less than $950 is generally charged as petty theft or shoplifting if the theft was from a commercial establishment. Petty theft and shoplifting are generally misdemeanors punishable by up to six months in county jail. The measure specifies that certain theft-related crimes—such as forgery, identity theft, and unauthorized use of a vehicle—cannot be charged as petty theft or shoplifting regardless of the value of money or property stolen. Instead, while these crimes could still be charged as misdemeanors, punishable by up to one year in jail, they also could be charged as felonies, punishable by up to three years in jail or prison.

The measure also establishes the following two crimes:

- ***Serial Theft.*** Any person with two or more prior convictions for specified theft-related crimes (such as burglary, forgery, or carjacking) who is subsequently found guilty of shoplifting or petty theft involving money or property that exceeds $250 could be charged with serial theft.
- ***Organized Retail Theft.*** Any person, acting with one or more other persons who commits two or more instances of petty theft or shoplifting where the total value of property stolen within a period of 180 days exceeds $250 could be charged with organized retail theft.

Both of these new crimes would be wobblers, punishable by up to three years in jail, including in cases where the offender has a prior serious, violent, or sex offense.

Changes Nonviolent Offender Release Consideration Process. The measure makes various changes to the current nonviolent offender release consideration process. Some of these changes include:

- Excluding certain inmates who would otherwise qualify for the release consideration process. For example, inmates convicted of specified human trafficking crimes and solicitation to commit murder would no longer be eligible.
- Allowing prosecuting agencies to appeal a release decision made by BPH.
- Requiring BPH to deny release to inmates who pose an unreasonable risk of creating victims as a result of future felony activity, rather than only those who pose an unreasonable risk of violence.
- Requiring CDCR to make reasonable efforts to locate victims regardless of whether they are registered with the state and notify them of the review.

Changes Community Supervision Practices. The measure makes various changes that impact how CDCR and county probation departments supervise offenders in the community. For example, counties currently have discretion on whether to punish offenders on PRCS who violate the terms of their supervision. In the case of serious violations, the probation department can choose to petition the court to revoke an offender's terms of supervision, potentially resulting in harsher terms of supervision or placement in county jail. This measure requires probation departments to petition the court to revoke a PRCS offender's terms of supervision if he or she has violated them for a third time.

In addition, the measure expands the type of information that CDCR and counties have to make available. For example, the measure requires counties to provide any records of supervision related to PRCS offenders upon request by CDCR. CDCR would be required to provide similar information to local law enforcement about individuals being released from prison into their jurisdictions.

Expands DNA Collection. The measure requires state and local law enforcement to collect DNA samples from any adult convicted of certain misdemeanor crimes and wobblers. Some of these crimes include shoplifting, forging checks, and certain domestic violence offenses.

FISCAL EFFECTS

The measure would have various fiscal effects on state and local governments. However, the magnitude of the effects discussed below are subject to significant uncertainty, depending how the measure is interpreted by the courts and how it is implemented by various entities (such as county probation departments and local prosecutors). For example, the changes to the nonviolent offender release consideration process would likely be subject to legal interpretation. This is because the measure seeks to impose statutory limits on the constitutional authority CDCR has to implement the process. For the purposes of our analysis, we assume that the measure is fully implemented.

State and Local Corrections Costs. The measure would increase state and local correctional costs in three ways. First, the increase in penalties for various theft-related crimes would increase

state and local correctional costs primarily by increasing the workload associated with housing offenders in county jail and supervising them in the community. Second, the changes made to the nonviolent offender release consideration process would increase state correctional costs by likely reducing the number of inmates who are released through the process and generally increasing the cost of the process. Third, the changes to community supervision practices would increase state and local correctional costs by likely increasing the number of PRCS offenders whose terms of supervision are revoked and placed in county jail and creating additional reporting requirements for CDCR and counties. We note that a small portion of the above costs would be offset by certain savings, such as from a reduction in the number of offenders reviewed by BPH. In total, we estimate that the net increase in state and local correctional costs could potentially range in the tens of millions of dollars annually. The actual increase would depend on the number of offenders that would be affected by the measure, which is uncertain given limited data currently available on offenders who commit certain crimes.

State and Local Court-Related Costs. The measure would increase state and local court-related costs. By increasing prosecutors' discretion to charge certain theft-related crimes as felonies, this measure would increase the number of felony filings and reduce the number of misdemeanor filings in state court. As a result, workload for the courts, county district attorney and public defender offices, and county sheriffs (who provide court security) would increase as felonies take more time to adjudicate than misdemeanors. In addition, requiring probation departments to petition the court after each PRCS offender's third violation would result in additional court proceedings. In total, we estimate that these court-related costs could be around a few million dollars annually, depending on the actual number of offenders affected by the measure.

State and Local Law Enforcement Costs. The measure would increase state and local law enforcement costs by expanding the number of offenders who are required to provide DNA samples. The magnitude of these costs would depend on the number of additional offenders that would be required to submit DNA samples, but would likely not exceed a couple million dollars annually.

Other Fiscal Effects. There could be various other unknown fiscal effects on state and local governments due to the measure. For example, costs described above could be somewhat offset by criminal justice system savings to the extent that this measure reduces future crime. This could occur if (1) higher criminal penalties authorized by this measure deter individuals from committing new crimes or (2) keeping offenders in prison, jail, or under community supervision for longer reduces offenders' opportunities to commit crimes. The extent to which these or other effects would occur is unknown.

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

- Increased state and local correctional costs likely in the tens of millions of dollars annually, primarily related to increases in penalties for certain theft-related crimes and the changes to the nonviolent offender release consideration process.

- Increased state and local court-related costs of around a few million dollars annually related to processing probation revocations and additional felony theft filings.
- Increased state and local law enforcement costs not likely to exceed a couple million dollars annually related to collecting and processing DNA samples from additional offenders.

Sincerely,

_____

Mac Taylor
Legislative Analyst

_____

Michael Cohen
Director of Finance

Prop 47 & 57
Voter Guides

Proposition 47 — Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

Official Title and Summary — **Prepared by the Attorney General**

Criminal Sentences. Misdemeanor Penalties. Initiative Statute.

- Requires misdemeanor sentence instead of felony for certain drug possession offenses.
- Requires misdemeanor sentence instead of felony for the following crimes when amount involved is $950 or less: petty theft, receiving stolen property, and forging/writing bad checks.
- Allows felony sentence for these offenses if person has previous conviction for crimes such as rape, murder, or child molestation or is registered sex offender.
- Requires resentencing for persons serving felony sentences for these offenses unless court finds unreasonable public safety risk.
- Applies savings to mental health and drug treatment programs, K–12 schools, and crime victims.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Net state criminal justice system savings that could reach the low hundreds of millions of dollars annually. These savings would be spent on school truancy and dropout prevention, mental health and substance abuse treatment, and victim services.
- Net county criminal justice system savings that could reach several hundred million dollars annually.

Analysis by the Legislative Analyst

Background

There are three types of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. Existing law classifies some felonies as "violent" or "serious," or both. Examples of felonies currently defined as both violent and serious include murder, robbery, and rape. Felonies that are not classified as violent or serious include grand theft (not involving a gun) and possession of illegal drugs. A misdemeanor is a less serious crime. Misdemeanors include crimes such as assault and public drunkenness. An infraction is the least serious crime and is usually punished with a fine. For example, possession of less than one ounce of marijuana for personal use is an infraction.

Felony Sentencing. In recent years, there has been an average of about 220,000 annual felony convictions in California. Offenders convicted of felonies can be sentenced as follows:

- ***State Prison.*** Felony offenders who have current or prior convictions for serious, violent, or sex crimes can be sentenced to state prison. Offenders who are released from prison after serving a sentence for a serious or violent crime are supervised in the community by state parole agents. Offenders who are released from prison after serving a sentence for a crime that is not a serious or violent crime are usually supervised in the community by county probation officers. Offenders who break the rules that they are required to follow while supervised in the community can be sent to county jail or state prison, depending on their criminal history and the seriousness of the violation.
- ***County Jail and Community Supervision.*** Felony offenders who have no current or prior convictions for serious, violent, or sex offenses are typically sentenced to county jail or the supervision of a county probation officer in the community, or both. In addition, depending on the discretion of the judge and what crime was committed, some offenders who have current or prior convictions for serious, violent, or sex offenses can receive similar sentences. Offenders who break the rules that they are required to follow while supervised in the community can be sent to county jail or state prison, depending on their criminal history and the seriousness of the violation.

Misdemeanor Sentencing. Under current law, offenders convicted of misdemeanors may be sentenced to county jail, county community

Analysis by the Legislative Analyst **Continued**

supervision, a fine, or some combination of the three. Offenders on county community supervision for a misdemeanor crime may be placed in jail if they break the rules that they are required to follow while supervised in the community.

In general, offenders convicted of misdemeanor crimes are punished less severely than felony offenders. For example, misdemeanor crimes carry a maximum sentence of up to one year in jail while felony offenders can spend much longer periods in prison or jail. In addition, offenders who are convicted of a misdemeanor are usually supervised in the community for fewer years and may not be supervised as closely by probation officers.

Wobbler Sentencing. Under current law, some crimes—such as check forgery and being found in possession of stolen property—can be charged as either a felony or a misdemeanor. These crimes are known as "wobblers." Courts decide how to charge wobbler crimes based on the details of the crime and the criminal history of the offender.

Proposal

This measure reduces penalties for certain offenders convicted of nonserious and nonviolent property and drug crimes. The measure also allows certain offenders who have been previously convicted of such crimes to apply for reduced sentences. In addition, the measure requires any state savings that result from the measure be spent to support truancy (unexcused absences) prevention, mental health and substance abuse treatment, and victim services. These changes are described in more detail below.

Reduction of Existing Penalties

This measure reduces certain nonserious and nonviolent property and drug offenses from wobblers or felonies to misdemeanors. The measure limits these reduced penalties to offenders who have not committed certain severe crimes listed in the measure—including murder and certain sex and gun crimes. Specifically, the measure reduces the penalties for the following crimes:

- ***Grand Theft.*** Under current law, theft of property worth $950 or less is often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes can sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. This measure would limit when theft of property of $950 or less can be charged as grand theft. Specifically, such crimes would no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
- ***Shoplifting.*** Under current law, shoplifting property worth $950 or less (a type of petty theft) is often a misdemeanor. However, such crimes can also be charged as burglary, which is a wobbler. Under this measure, shoplifting property worth $950 or less would always be a misdemeanor and could not be charged as burglary.
- ***Receiving Stolen Property.*** Under current law, individuals found with stolen property may be charged with receiving stolen property, which is a wobbler crime. Under this measure, receiving stolen property worth $950 or less would always be a misdemeanor.
- ***Writing Bad Checks.*** Under current law, writing a bad check is generally a misdemeanor. However, if the check is worth more than $450, or if the offender has previously committed a crime related to forgery, it is a wobbler crime. Under this measure, it would be a misdemeanor to write a bad check unless the check is worth more than $950 or the offender had previously committed three forgery related crimes, in which case it would remain a wobbler crime.
- ***Check Forgery.*** Under current law, it is a wobbler crime to forge a check of any amount. Under this measure, forging a check worth $950 or less would always be a misdemeanor, except that it would remain a wobbler crime if the offender commits identity theft in connection with forging a check.
- ***Drug Possession.*** Under current law, possession for personal use of most illegal drugs (such as cocaine or heroin) is a misdemeanor, a wobbler, or a felony—depending on the amount and type of drug. Under this measure, such crimes would always be misdemeanors. The measure would not change the penalty for possession of

For the full text of Proposition 47, see page 70.

marijuana, which is currently either an infraction or a misdemeanor.

We estimate that about 40,000 offenders annually are convicted of the above crimes and would be affected by the measure. However, this estimate is based on the limited available data and the actual number could be thousands of offenders higher or lower.

Change in Penalties for These Offenders. As the above crimes are nonserious and nonviolent, most offenders are currently being handled at the county level. Under this measure, that would continue to be the case. However, the length of sentences—jail time and/or community supervision—would be less. A relatively small portion—about one-tenth—of offenders of the above crimes are currently sent to state prison (generally, because they had a prior serious or violent conviction). Under this measure, none of these offenders would be sent to state prison. Instead, they would serve lesser sentences at the county level.

Resentencing of Previously Convicted Offenders

This measure allows offenders currently serving felony sentences for the above crimes to apply to have their felony sentences reduced to misdemeanor sentences. In addition, certain offenders who have already completed a sentence for a felony that the measure changes could apply to the court to have their felony conviction changed to a misdemeanor. However, no offender who has committed a specified severe crime could be resentenced or have their conviction changed. In addition, the measure states that a court is not required to resentence an offender currently serving a felony sentence if the court finds it likely that the offender will commit a specified severe crime. Offenders who are resentenced would be required to be on state parole for one year, unless the judge chooses to remove that requirement.

Funding for Truancy Prevention, Treatment, and Victim Services

The measure requires that the annual savings to the state from the measure, as estimated by the Governor's administration, be annually transferred from the General Fund into a new state fund, the Safe Neighborhoods and Schools Fund. Under the measure, monies in the fund would be divided as follows:

- 25 percent for grants aimed at reducing truancy and drop-outs among K–12 students in public schools.
- 10 percent for victim services grants.
- 65 percent to support mental health and drug abuse treatment services that are designed to help keep individuals out of prison and jail.

Fiscal Effects

This measure would have a number of fiscal effects on the state and local governments. The size of these effects would depend on several key factors. In particular, it would depend on the way individuals are currently being sentenced for the felony crimes changed by this measure. Currently, there is limited data available on this, particularly at the county level. The fiscal effects would also depend on how certain provisions in the measure are implemented, including how offenders would be sentenced for crimes changed by the measure. For example, it is uncertain whether such offenders would be sentenced to jail or community supervision and for how long. In addition, the fiscal effects would depend heavily on the number of crimes affected by the measure that are committed in the future. Thus, the fiscal effects of the measure described below are subject to significant uncertainty.

State Effects of Reduced Penalties

The proposed reduction in penalties would affect state prison, parole, and court costs.

State Prison and Parole. This measure makes two changes that would reduce the state prison population and associated costs. First, changing future crimes from felonies and wobblers to misdemeanors would make fewer offenders eligible for state prison sentences. We estimate that this could result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Second, the resentencing of inmates currently in state prison could result in the release of several thousand inmates, temporarily reducing the state prison population for a few years after the measure becomes law.

In addition, the resentencing of individuals currently serving sentences for felonies that are changed to misdemeanors would temporarily increase the state parole population by a couple thousand parolees over a three-year period. The costs associated with this

Analysis by the Legislative Analyst Continued

increase in the parole population would temporarily offset a portion of the above prison savings.

State Courts. Under the measure, the courts would experience a one-time increase in costs resulting from the resentencing of offenders and from changing the sentences of those who have already completed their sentences. However, the above costs to the courts would be partly offset by savings in other areas. First, because misdemeanors generally take less court time to process than felonies, the proposed reduction in penalties would reduce the amount of resources needed for such cases. Second, the measure would reduce the amount of time offenders spend on county community supervision, resulting in fewer offenders being supervised at any given time. This would likely reduce the number of court hearings for offenders who break the rules that they are required to follow while supervised in the community. Overall, we estimate that the measure could result in a net increase in court costs for a few years with net annual savings thereafter.

Summary of State Fiscal Effects. In total, we estimate that the effects described above could eventually result in net state criminal justice system savings in the low hundreds of millions of dollars annually, primarily from an ongoing reduction in the prison population of several thousand inmates. As noted earlier, any state savings would be deposited in the Safe Neighborhoods and Schools Fund to support various purposes.

County Effects of Reduced Penalties

The proposed reduction in penalties would also affect county jail and community supervision operations, as well as those of various other county agencies (such as public defenders and district attorneys' offices).

County Jail and Community Supervision. The proposed reduction in penalties would have various effects on the number of individuals in county jails. Most significantly, the measure would reduce the jail population as most offenders whose sentence currently includes a jail term would stay in jail for a shorter time period. In addition, some offenders currently serving sentences in jail for certain felonies could be eligible for release. These reductions would be slightly offset by an increase in the jail population as offenders who would otherwise have been sentenced to state prison would now be placed in jail. On balance, we estimate that the total number of statewide county jail beds freed up by these changes could reach into the low tens of thousands annually within a few years. We note, however, that this would not necessarily result in a reduction in the county jail population of a similar size. This is because many county jails are currently overcrowded and, therefore, release inmates early. Such jails could use the available jail space created by the measure to reduce such early releases.

We also estimate that county community supervision populations would decline. This is because offenders would likely spend less time under such supervision if they were sentenced for a misdemeanor instead of a felony. Thus, county probation departments could experience a reduction in their caseloads of tens of thousands of offenders within a few years after the measure becomes law.

Other County Criminal Justice System Effects. As discussed above, the reduction in penalties would increase workload associated with resentencing in the short run. However, the changes would reduce workload associated with both felony filings and other court hearings (such as for offenders who break the rules of their community supervision) in the long run. As a result, while county district attorneys' and public defenders' offices (who participate in these hearings) and county sheriffs (who provide court security) could experience an increase in workload in the first few years, their workload would be reduced on an ongoing basis in the long run.

Summary of County Fiscal Effects. We estimate that the effects described above could result in net criminal justice system savings to the counties of several hundred million dollars annually, primarily from freeing jail capacity.

Effects of Increased Services Funded by the Measure

Under the measure, the above savings would be used to provide additional funding for truancy prevention, mental health and drug abuse treatment, and other programs designed to keep offenders out of prison and jail. If such funding increased participation in these programs and made participants less likely to commit future crimes, the measure could result in future additional savings to the state and counties.

Visit *http://cal-access.sos.ca.gov* for details about money contributed in this contest.

For the full text of Proposition 47, see page 70.

PROPOSITION

57 CRIMINAL SENTENCES. PAROLE. JUVENILE CRIMINAL PROCEEDINGS AND SENTENCING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Allows parole consideration for persons convicted of nonviolent felonies, upon completion of prison term for their primary offense as defined.
- Authorizes Department of Corrections and Rehabilitation to award sentence credits for rehabilitation, good behavior, or educational achievements.
- Requires Department of Corrections and Rehabilitation to adopt regulations to implement new parole and sentence credit provisions and certify they enhance public safety.
- Provides juvenile court judges shall make determination, upon prosecutor motion, whether juveniles age 14 and older should be prosecuted and sentenced as adults for specified offenses.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Net state savings likely in the tens of millions of dollars annually, primarily due to reductions in the prison population. Savings would depend on how certain provisions are implemented.
- Net county costs of likely a few million dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Adult Offenders

The California Department of Corrections and Rehabilitation (CDCR) operates the state prison system. CDCR is responsible for housing adults who have been convicted of felonies identified in state law as serious or violent, as well as certain sex offenses. Examples of violent felonies include murder, robbery, and rape. Examples of serious felonies include certain forms of assault, such as assault with the intent to commit robbery. The department is also responsible for housing individuals convicted of other felonies (such as grand theft) in cases where those individuals have been previously convicted of serious, violent, or certain sex offenses. As of June 2016, there were about 128,000 individuals in state prison. Below, we discuss the sentencing of adult offenders and the use of parole consideration hearings and sentencing credits.

Adult Sentencing. Individuals are placed in prison under an indeterminate sentence or a determinate sentence. Under indeterminate sentencing, individuals are sentenced to prison for a term that includes a minimum but no specific maximum, such as 25-years-to-life. Under determinate sentencing, individuals receive fixed prison terms with a specified release date. Most people in state prison have received a determinate sentence. Individuals in prison have been convicted of a main or primary offense. They often serve additional time due to other, lesser crimes for which they are convicted at the same time. In addition, state law includes various sentencing enhancements that can increase the amount of time individuals serve. For example, those previously convicted of a serious or violent offense generally must serve twice the term for any new felony offense.

Parole Consideration Hearings. After an individual serves the minimum number of years required for an indeterminate sentence, the state Board of Parole Hearings (BPH) conducts a parole consideration hearing to determine whether the individual is ready to be released from prison. For example, BPH would conduct such a hearing for an individual sentenced to 25-years-to-life after the individual served 25 years in prison. If BPH decides not to release the individual from prison, the board would conduct a subsequent hearing in the future. Individuals who receive a determinate sentence 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. For example, certain individuals who have not been convicted of violent felonies are currently eligible for parole consideration after they have served half of their prison sentence. This was one of several measures put in place by a federal court to reduce the state's prison population.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Sentencing Credits. State law currently allows CDCR to award credits under certain conditions to prison inmates that reduce the time they must serve in prison. The credits are provided for good behavior or for participating in work, training, or education programs. Over two-thirds of inmates are eligible to receive credits. State law limits the amount that inmate sentences can be reduced through credits. For example, more than half of inmates eligible for credits can only reduce their sentences by 15 percent because they have a conviction for a violent offense.

Juvenile Justice

Youths accused of committing crimes when they were under 18 years of age are generally tried in juvenile court. However, under certain circumstances, they can be tried in adult court. Below, we discuss the process for determining whether a youth is tried in juvenile court versus adult court.

Youths in Juvenile Court. Juvenile court proceedings are different than adult court proceedings. For example, juvenile court judges do not sentence a youth to a set term in prison or jail. Instead, the judge determines the appropriate placement and rehabilitative treatment (such as drug treatment) for the youth, based on factors such as the youth's offense and criminal history. About 44,000 youths were tried in juvenile court in 2015.

Counties are generally responsible for the youths placed by juvenile courts. Some of these youths are placed in county juvenile facilities. However, if the judge finds that the youth committed certain significant crimes listed in statute (such as murder, robbery, and certain sex offenses), the judge can place the youth in a state juvenile facility. State law requires that counties generally pay a portion of the cost of housing youths in these state facilities. Youths who are released from a state juvenile facility are generally supervised in the community by county probation officers.

Youths in Adult Court. In certain circumstances, youths accused of committing crimes when they were age 14 or older can be tried in adult court and receive adult sentences. (Individuals accused of committing crimes before they were age 14 must have their cases heard in juvenile court.) Such cases can be sent to adult court in one of the three following ways:

- ***Automatically Based on Seriousness of Crime.*** If a youth is accused of committing murder or specific sex offenses with certain special circumstances that make the crime more serious (such as also being accused of torturing the victim), he or she must be tried in adult court.
- ***At the Discretion of Prosecutor Based on Crime and Criminal History.*** If a youth has a significant criminal history and/or is accused of certain crimes listed in statute (such as murder), a prosecutor can file charges directly in adult court. Prosecutors have this ability in more cases for youths who were age 16 or 17 at the time the crime was committed than for those who were age 14 or 15.
- ***At the Discretion of Judge Based on Hearing.*** A prosecutor can request a hearing in which a juvenile court judge decides whether a youth should be transferred to adult court. For youths who were age 14 or 15 when the crime was committed, the crime must be one of certain significant crimes listed in statute (such as murder, robbery, or certain sex offenses). For youths who were age 16 or 17 when the crime was committed, the prosecutor can seek this hearing for any crime, but typically will only do so for more serious crimes or for youths with a significant criminal history.

Relatively few youths are sent to adult court each year. For example, less than 600 youths were sent to adult court in 2015. Less than 100 youths were sent to adult court at the discretion of a judge based on a hearing. The remainder were sent to adult court automatically based on the seriousness of their crime or at the discretion of a prosecutor based on their crime and/or criminal history.

Youths convicted in adult court when they are under 18 years of age are typically held in a state juvenile facility for the first portion of their sentences. When these youths turn age 18, they are generally transferred to state prison. However, if their sentences are short enough that they are able to complete their terms before turning age 21, they serve their entire sentences in a state juvenile

For the full text of Proposition 57, see page 141.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

facility. The state pays the entire cost of housing youths in a state juvenile facility who were convicted in adult court. After completing their sentences, these youths are generally supervised in the community by state parole agents.

PROPOSAL

This measure makes changes to the State Constitution to increase the number of inmates eligible for parole consideration and authorizes CDCR to award sentencing credits to inmates. The measure also makes changes to state law to require that youths have a hearing in juvenile court before they can be transferred to adult court. We describe these provisions in greater detail below.

Parole Consideration for Nonviolent Offenders. The measure changes the State Constitution to make individuals who are convicted of "nonviolent felony" offenses eligible for parole consideration after serving the full prison term for their primary offense. As a result, BPH would decide whether to release these individuals before they have served any additional time related to other crimes or sentencing enhancements.

The measure requires CDCR to adopt regulations to implement these changes. Although the measure and current law do not specify which felony crimes are defined as nonviolent, this analysis assumes a nonviolent felony offense would include any felony offense that is not specifically defined in statute as violent. As of September 2015, there were about 30,000 individuals in state prison who would be affected by the parole consideration provisions of the measure. In addition, about 7,500 of the individuals admitted to state prison each year would be eligible for parole consideration under the measure. Individuals who would be affected by the above changes currently serve about two years in prison before being considered for parole and/or released. Under the measure, we estimate that these individuals would serve around one and one-half years in prison before being considered for parole and/or released.

Authority to Award Credits. The measure also changes the State Constitution to give CDCR the authority to award credits to inmates for good behavior and approved rehabilitative or educational achievements. The department could award increased credits to those currently eligible for them and credits to those currently ineligible. As a result, CDCR could increase the amount of credits inmates can earn, which would reduce the amount of time served in prison.

Juvenile Transfer Hearings. The measure changes state law to require that, before youths can be transferred to adult court, they must have a hearing in juvenile court to determine whether they should be transferred. As a result, the only way a youth could be tried in adult court is if the juvenile court judge in the hearing decides to transfer the youth to adult court. Youths accused of committing certain severe crimes would no longer automatically be tried in adult court and no youth could be tried in adult court based only on the decision of a prosecutor. In addition, the measure specifies that prosecutors can only seek transfer hearings for youths accused of (1) committing certain significant crimes listed in state law (such as murder, robbery, and certain sex offenses) when they were age 14 or 15 or (2) committing a felony when they were 16 or 17. As a result of these provisions, there would be fewer youths tried in adult court.

FISCAL EFFECTS

This measure would have various fiscal effects on the state and local governments. However, the magnitude of these effects would depend on how certain provisions in the measure are interpreted and implemented. As such, our estimates below are subject to significant uncertainty.

Parole Consideration for Nonviolent Offenders

Net State Savings. To the extent nonviolent offenders serve shorter prison terms due to the parole consideration provisions of the measure, it would reduce state costs as the size of the prison population would decline. The level of savings would depend heavily on the number of individuals BPH chose to release. Based on recent BPH experience with parole consideration for certain nonviolent offenders, we estimate that the ongoing fiscal impact of this provision would likely be state savings in the tens of millions of dollars annually. These savings would be offset somewhat by additional costs for BPH to conduct more parole considerations.

The measure would also result in temporary fiscal effects in the near term due to (1) additional savings

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

from the release of offenders currently in prison who would be eligible for parole consideration and (2) an acceleration of parole costs to supervise those individuals who are released from prison earlier than otherwise.

Acceleration of County Costs. Because the measure would result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure would likely increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Sentencing Credits for Prison Inmates

Net State Savings. To the extent CDCR awards individuals with additional credits, the measure would reduce state costs as a result of a lower prison population. Any level of savings is highly uncertain, as it would depend on how much average sentence lengths were reduced by CDCR. If the department granted enough credits to reduce the average time inmates serve by a few weeks, the measure could eventually result in state savings in the low tens of millions of dollars annually. However, the savings could be significantly higher or lower if the department made different decisions. Because the measure could result in the early release of some individuals who are supervised by state parole agents following release, the measure could temporarily increase the size of the parole population. The state, however, would eventually have incurred these parole costs even in the absence of the measure.

Acceleration of County Costs. Because the measure could result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure could increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Prosecution of Youth in Adult Court

Net State Savings. If the measure's transfer hearing requirements result in fewer youths being tried and convicted in adult court, the measure would have a number of fiscal effects on the state. First, it would reduce state prison and parole costs as those youths would no longer spend any time in prison or be supervised by state parole agents following their release. In addition, because juvenile court proceedings are generally shorter than adult court proceedings, the measure would reduce state court costs. These savings would be partially offset by increased state juvenile justice costs as youths affected by the measure would generally spend a greater amount of time in state juvenile facilities. (As noted earlier, a portion of the cost of housing these youths in state juvenile facilities would be paid for by counties.) In total, we estimate that the net savings to the state from the above effects could be a few million dollars annually.

County Costs. If fewer youths are tried and convicted as adults, the measure would also have a number of fiscal effects on counties. First, as discussed above, counties would be responsible for paying a portion of the costs of housing these youths in state juvenile facilities. In addition, county probation departments would be responsible for supervising these youths following their release. Since juvenile court proceedings are generally shorter than adult court proceedings, the above county costs would be partially offset by some savings. For example, county agencies involved in court proceedings for these youths—such as district attorneys, public defenders, and county probation—would experience a reduction in workload. **In total, we estimate that the net costs to counties due to the above effects would likely be a few million dollars annually.**

Other Fiscal Effects

The measure could also affect crime rates in varying ways. On the one hand, if the measure results in offenders spending less time in prison and more time in the community, it could result in these offenders committing additional crimes or crimes sooner than they otherwise would have. On the other hand, the measure could lead to more offenders participating in educational and rehabilitative programs that reduce the likelihood of them committing crimes in the future. The net effect of the above factors is unknown.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 57, see page 141.

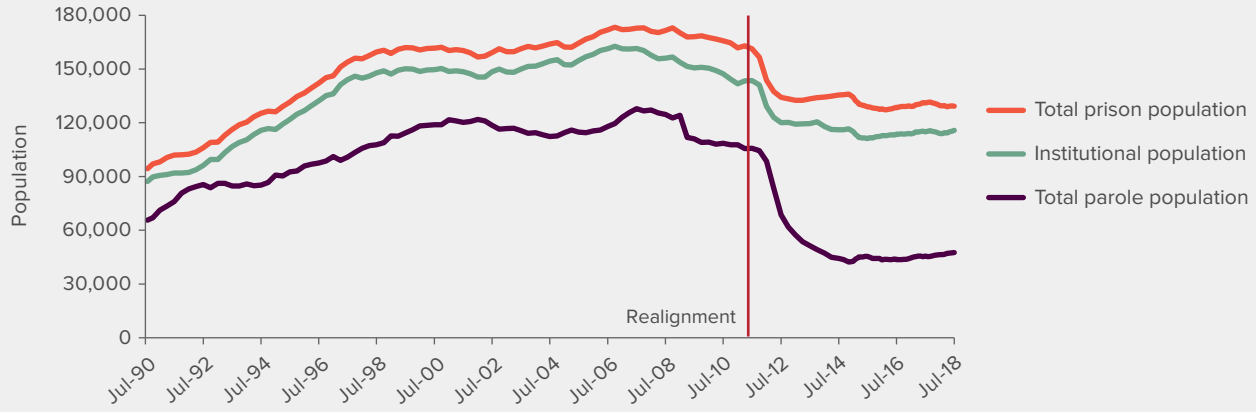
Crime Trends
PPIC Report

JANUARY 2020

California continues to reshape its criminal justice system

California has reversed a decades-long upward trend in its state prison population, which has fallen by about 48,000 inmates (or 28%) from its 2006 peak. The state has also begun moving its criminal justice system away from incarceration. Since California implemented Public Safety Realignment—the first of several recent reforms—in 2011, statewide violent and property crime rates have remained close to historic lows. However, California's rearrest and reconviction rates—and its corrections budget—remain the highest in the nation. Identifying and implementing cost-effective rehabilitative programming and services for offenders who are incarcerated, as well as those who have returned to their communities, should remain a high priority at the state and county levels.

CALIFORNIA'S PRISON AND PAROLE POPULATIONS HAVE DECLINED SUBSTANTIALLY



SOURCE: California Department of Corrections and Rehabilitation (CDCR) monthly population reports.

NOTE: "Institutional population" refers to the population in CDCR adult institutions in California; the total population includes inmates in fire camps, community correctional facilities, and facilities outside California.

California must also continue to address concerns about inequities in its criminal justice system. According to the March 2017 PPIC Statewide Survey, only 29 percent of Californians—and 6 percent of African Americans—feel that the system treats whites and nonwhites equally. While racial disparities in arrest rates have lessened since the early 1990s, they remain significant. There are also significant disparities in incarceration. Policymakers have enacted laws that require data collection on arrests, establish statewide standards for police use of force, and replace cash bail with a new pretrial release system. Bail reform is on hold pending the outcome of a November 2020 ballot referendum, and voters may be asked to weigh in on other reforms as well.

Recent reforms have reduced California's prison population, but costs remain high

- **California has 34 state prisons; it also houses inmates in other facilities.**
  As of July 2019, the prison population was roughly 125,000. Most inmates (114,900) were in California Department of Corrections and Rehabilitation (CDCR) facilities (this group is known as the "institutional population") and 2,800 were in state-run fire camps. Another 6,200 inmates were in other public and private facilities around the state (often called "contract beds"). By the beginning of July 2019 the state had stopped using private out-of-state facilities to hold inmates.

- **Counties now supervise more released prisoners—and returns to prison have declined.**
  Between July 2017 and July 2018, about half of inmates released from state prison (18,000) went to county probation—known as Post Release Community Supervision—instead of state parole (19,200). By July 2019, the parole population was 51,000—a dramatic drop (more than 51%) from 104,800 in September 2011, the month before

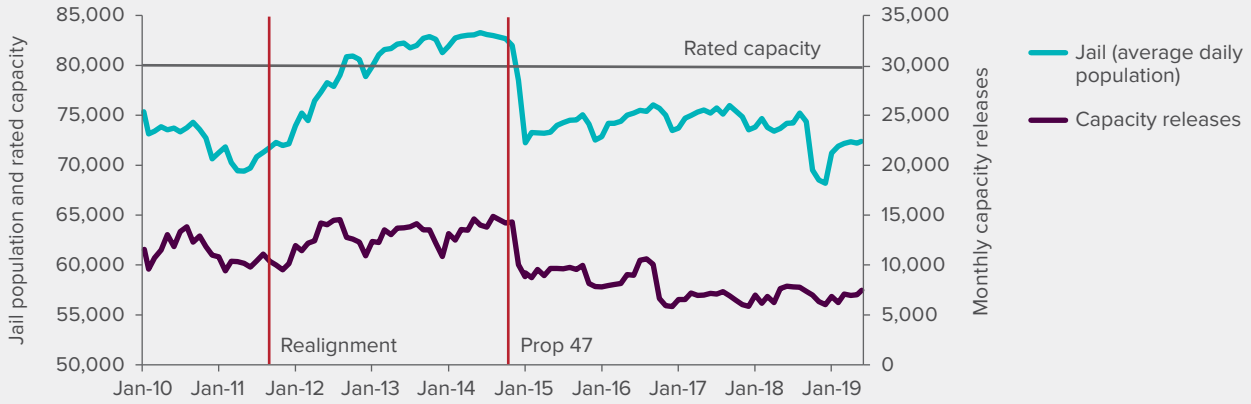
realignment was implemented. Once it was no longer possible to return most California parole violators to state prison, the three-year return-to-prison rate dropped from nearly two-thirds to less than one-quarter. However, these data do not capture offenders sentenced at the county level. CDCR also reports declines in rearrests and reconvictions for those released from prison.

- **The state's incarceration rate is below the US average; its corrections budget is the nation's largest.** Between 2006 and July 2019, California's prison incarceration rate dropped from 475 inmates per 100,000 residents to 314; it is well below the 2017 national average of 390. In 2017, the most recent year of comparable data, California had the highest corrections expenditures in the nation—at nearly $9 billion, state spending exceeded the combined expenditures of Texas and New York, the second- and third-biggest spenders.

Proposition 47 eased jail population pressure

- **The jail population declined under Proposition 47.** After rising in the first years of realignment, the jail population fell under Proposition 47 (2014), which reclassified some felony drug and property offenses as misdemeanors. It has remained below statewide capacity (around 79,000) since early 2015. County sheriffs are using alternatives such as electronic monitoring, day reporting centers, community service, and alternative work programs. Nevertheless, some counties continue to release inmates to ease crowding. In June 2019, almost 7,500 inmates were released early due to capacity constraints.

PROPOSITION 47 LOWERED THE COUNTY JAIL POPULATION AND THE NUMBER OF CAPACITY RELEASES



SOURCE: Board of State and Community Corrections (BSCC) monthly Jail Profile Survey.

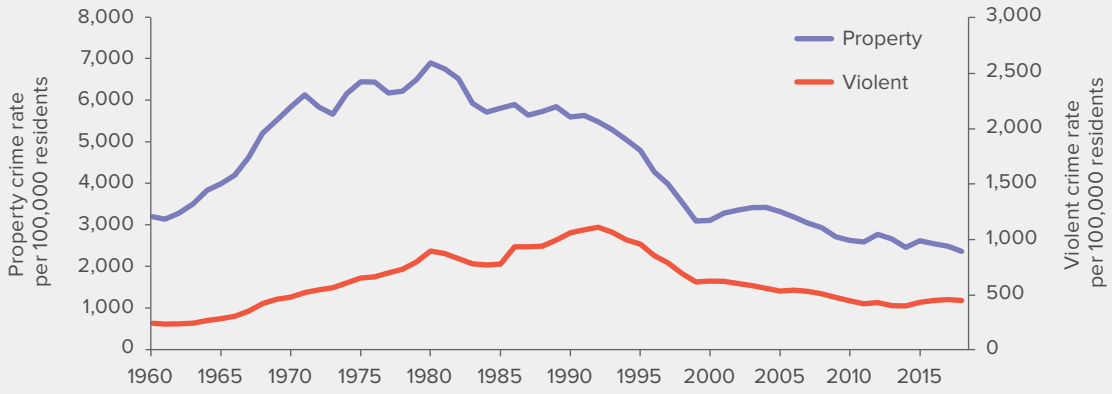
NOTES: As of October 2018, the BSCC sets the statewide rated jail capacity at nearly 79,000 inmates. The large drop in the statewide jail population that occurs after July 2018 is caused by inconsistent data reporting from several counties.

- **Sheriffs are expanding reentry services and programs, but many jails are not designed for them.** Counties are introducing or expanding inmate needs assessments as well as mental health and substance abuse services, cognitive behavioral treatment, and employment and housing programs. Prop 47 has shifted some funding to evidence-based programs to reduce recidivism and incarceration. In the first four years, $256 million was redirected to mental health and substance abuse programs, K–12 education, and services for crime victims. But counties are providing services in facilities that were not designed for long-term inmates. The difficulties are especially acute in older facilities. The state has earmarked $2.5 billion for county jail construction, funding more than 15,500 jail beds over the next decade.

Crime rates have fluctuated slightly but remain near historic lows

- **California's violent crime rate fell slightly in 2018.** After three years of increases, California's violent crime rated decreased by 1.5 percent in 2018 (the most recent year of available data), to 444 per 100,000 residents, which is nearly 13 percent higher than the recent historical low of 393 in 2014. California's violent crime rate ranked 15th nationwide and was higher than the national rate of 369 per 100,000 residents. In 2018, nearly 60 percent of California's reported violent crimes were aggravated assaults, 31 percent were robberies, 9 percent were rapes, and less than 1 percent were homicides.

CALIFORNIA'S VIOLENT AND PROPERTY CRIME RATES ARE STILL AT HISTORIC LOWS



SOURCES: Author calculations based on FBI Uniform Crime Report, 1960–2002, and the California Department of Justice's Criminal Justice Statistics Center, California Crimes and Clearances Files, 2003–18.

NOTES: Violent crime includes homicide, rape, robbery, and aggravated assault. Property crime includes burglary, motor vehicle theft, and larceny theft (including non-felonious larceny theft).

- **The property crime rate reached a new low in 2018.**
  California's property crime rate decreased by 5.1 percent in 2018, to 2,363 per 100,000 residents. This was a 50-year low, but it ranked 22nd among all states and was higher than the national rate (2,200 per 100,000 residents). Of all reported property crimes in California in 2018, 66 percent were larceny thefts, 17.5 percent were burglaries, and 16.5 percent were auto thefts.
- **The impact of recent reforms on crime is limited to auto thefts and larceny.**
  There is no evidence yet that realignment or Prop 47 has affected violent crime, but the reforms have affected thefts of motor vehicles and larceny thefts. Realignment is estimated to have led to an increase of about 17 percent in the auto theft rate (approximately 60 more thefts per 100,000 residents), while Prop 47 has led to an increase of roughly 9 percent in the larceny theft rate (about 135 more thefts per 100,000 residents). Crime data show that thefts from motor vehicles account for about three-quarters of the latter increase.

Racial and economic equity remain areas of concern

Racial and economic inequities are long-standing issues in California's criminal justice system—as they are in other states. There has been some progress, but disparities in arrests and incarceration persist.

- **California might end cash bail.**
  Senate Bill 10 (SB 10), aimed at addressing concerns about racial and economic inequities in California's bail system, was signed into law in August 2018. But implementation is on hold until November, pending the outcome of a voter referendum. If SB 10 is implemented, it will eliminate cash bail and dramatically reform pretrial detention with the use of risk-assessment tools to weigh the public safety risk of releasing arrestees before and during court proceedings. It would also limit pretrial detention for most misdemeanors.
- **Racial disparities in arrests have become less extreme but are still significant.**
  In 1980, the adult arrest rate for African Americans was 16,653 per 100,000 residents, compared with 9,294 among Latinos and 5,553 among whites. Arrest rates grew for all groups in the 1980s, but the African American rate in the late '80s was about four times the rate among whites. Since the early '90s, arrest rates have declined most for African Americans. In 2016, the African American arrest rate was 9,765, the Latino rate was 3,606, and the white rate was 3,235.
- **African American men remain overrepresented in the prison population.**
  At the end of 2016, 29 percent of the male inmates in state prisons were African American; only 6 percent of the state's male residents are African American. The incarceration rate for African American men is 4,180 per 100,000. White men are imprisoned at a rate of 420 per 100,000, and imprisonment rates for Latino men and men of other races are 1,028 and 335 per 100,000, respectively.

Looking ahead

California's reforms have eased prison and jail overcrowding, and statewide crime rates are close to historic lows. Programming and services that help inmates reenter communities and minimize returns to jail or prison should continue to be high priorities. Addressing racial and economic disparities in our criminal justice system is also important.

Monitor crime rates. Given California's high pre-reform incarceration levels, the state's approach to putting offenders behind bars was not a cost-effective way to prevent crime. With lower incarceration rates, however, reducing prison and jail populations can put upward pressure on crime rates. It is essential to watch these rates across regions as well as in particular crime categories. According to the May 2019 PPIC Statewide Survey, 27 percent of Californians say violence and street crime is a big problem in their local community.

Identify and implement cost-effective interventions to reduce recidivism. Recent reforms heighten the importance of cost-effective, evidence-based programming and services that reduce recidivism. To identify effective and successful interventions, the state will need to support programming evaluation and the collection of high-quality, integrated data from both state and county correctional systems.

Address equity issues. California policymakers have adopted and/or enacted some reforms designed to identify and address criminal justice disparities. State and local stakeholders should monitor the impact of these reforms and continue to determine at what points and in what forms inequities occur.

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Three-Judge Court Monthly Update

JANUARY 15, 2020

On February 10, 2014, the Three-Judge Court extended the deadline to achieve the court-ordered reduction in the in-state adult institution population to 137.5% of design capacity to February 28, 2016. (ECF Nos. 2766/5060 & 2767/5061.) This report is CDCR's 70th report submitted since the Court issued its population-reduction order, and the 58th report submitted since February 2015, when Defendants informed the Court that the population was below the court-ordered reduction. (ECF No. 2838/5278, filed February 17, 2015.) It has now been over four years since Defendants have been in full compliance with the population-reduction order. As of December 11, 2019, the State's prison population is 134.5% of design capacity.

A. Update on durability:

As previously reported, Proposition 57, the State's durable remedy that enacts many of the Court-ordered reforms as well as expands credit earning opportunities, was approved by voters in November 2016.

On May 1, 2018, regulations for Proposition 57 were approved and made permanent. Information about these regulations can be found at: https://www.cdcr.ca.gov/proposition57/ (https://www.cdcr.ca.gov/proposition57/).

Later, in December 2018, the Office of Administrative Law approved two emergency regulation packages which: (1) amend the nonviolent offender parole process to distinguish between determinately and indeterminately sentenced offenders and implement a parole consideration process for indeterminately sentenced, nonviolent offenders ("Nonviolent Offender Package"); and (2) expands credit earning opportunities ("Credit Earning Package") for inmates who achieve a High School diploma or its equivalent or who complete 52 hours of programming under the Rehabilitative Achievement Credit program. The Credit Earning Package also reduces the minimum amount of time an inmate must serve until released following a sudden award of substantial credit.

The Credit Earning Package went into effect on January 9, 2019, and can be found at https://oal.ca.gov/wp-content/uploads/sites/166/2019/01/2018-1220-03EON_APP-1.pdf. (https://oal.ca.gov/wp-content/uploads/sites/166/2019/01/2018-1220-03EON_APP-1.pdf.)

The Nonviolent Offender Package went into effect on January 1, 2019, and can be found at https://oal.ca.gov/wp-content/uploads/sites/166/2018/12/2018-1211-01EON.pdf (https://urldefense.proofpoint.com/v2/url?u=https-3A__oal.ca.gov_wp-2Dcontent_uploads_sites_166_2018_12_2018-2D1211-2D01EON.pdf&d=DwMFAg&c=uASjV29gZuJt5_5J5CPRuQ&r=vfo5CYt106Tj5RBamCHhyG0
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Following the Court of Appeal's decision *In re McGhee*, effective July 9, 2019, CDCR no longer applies the previously mandated public safety screening criteria to eligible nonviolent offenders. All eligible (determinately and indeterminately sentenced) nonviolent offenders are now referred to the Board of Parole Hearings for consideration, regardless of their in-prison behavior. On September 10, 2019, the Office of Administrative Law approved the new emergency regulations repealing the public safety screening criteria for determinately sentenced, nonviolent offenders. The emergency regulations will remain in effect through February 19, 2020, unless they are extended or the regular rulemaking process for making the regulations permanent is completed before then. The corresponding regular rulemaking notification package can be found at https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2019/11/NCR-19-06-Master-File-ADA-for-Posting.pdf (https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2019/11/NCR-19-06-Master-File-ADA-for-Posting.pdf) .

The impact of the above-described regulations include:

1. Increased credit earning opportunities for all inmates except the condemned and those serving life without parole.

1,872 inmates released in November earned credit authorized by Proposition 57 towards their advanced release date. These inmates earned an estimated average of 141.4 days of additional credit.[1]

2. Determinately Sentenced Nonviolent Offender Parole Process.

CDCR began referring inmates to the Board for this process on July 1, 2017, pursuant to the emergency regulations promulgated on April 13, 2017. From July 1, 2017 through December 31, 2019, 17,649 referrals were made to the Board. As of December 31, 2019, 12,460 referrals have been reviewed on the merits, with 2,498 inmates approved for release and 9,962 denied. Additionally, 1,717 referrals have been closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The remaining referrals are pending review, including the 30-day period for written input from inmates, victims, and prosecutors.

3. Indeterminately Sentenced Nonviolent Offender Parole Process.

CDCR began screening indeterminately-sentenced, nonviolent offenders for eligibility in January 2019. As of December 31, 2019, 2,339 inmates have been referred to the Board for a parole consideration hearing, of which 119 were closed because the Board's jurisdictional review of the inmates' criminal history and central file revealed they were not eligible for parole consideration. The Board conducted 82 hearings for indeterminately sentenced nonviolent offenders. The hearings resulted in 3 grants, 72 denials, and 7 stipulations to unsuitability. An additional 167 hearings were scheduled but were postponed, waived, continued, or cancelled. The remaining referrals are pending parole suitability hearings.

B. Update on Other Measures Defendants Continue to Implement:

1. Contracting for additional in-state capacity in county jails, community correctional facilities, private prison (s), and reduction of out-of-state beds:

Defendants have reduced the population in CDCR's 34 institutions by transferring inmates to in-state facilities.

a. Private Prison (California City):

The current population of California City is approximately 2,162 inmates.

b. Community correctional facilities (CCFs) and modified community correctional facilities (MCCFs):

The State currently has contracted for 3,518 MCCF beds that are in various stages of activation and transfer.

c. County jails:

The State continues to evaluate the need for additional in-state jail bed contracts to house CDCR inmates.

d. Reduction of inmates housed out-of-state:

On February 10, 2014, the Court ordered Defendants to "explore ways to attempt to reduce the number of inmates housed in out-of-state facilities to the extent feasible." Since that time, the State has reduced the out-of-state inmate population to zero.[2] The last inmates in out-of-state contract beds returned to California at the end of June 2019.

2. Parole process for medically incapacitated inmates:

The State continues to work closely with the Receiver's Office to implement this measure. The Receiver's Office is continuing to review inmates and is sending completed recommendations to CDCR. Recommendations received from the Receiver's office are reviewed by DAI and referred to the Board for a hearing. As of January 9, 2020, the Board has held 158 medical parole hearings under the revised procedures, resulting in 95 approvals and 63 denials. An additional 38 were scheduled, but were postponed, continued, or cancelled.

3. Parole process for inmates 60 years of age or older having served at least 25 years:

The Board continues to schedule eligible inmates for hearings who were not already in the Board's hearing cycle, including inmates sentenced to determinate terms. From February 11, 2014, through December 31, 2019, the Board held 4,113 hearings for inmates eligible for elderly parole, resulting in 1,141 grants, 2,576 denials, 396 stipulations to unsuitability, and there currently are no split votes that require further

review by the full Board. An additional 1,855 hearings were scheduled during this period but were waived, postponed, continued, or cancelled.

As discussed in prior reports, the State enacted Assembly Bill 1448 on October 11, 2017, authorizing an elderly parole program for inmates age 60 or older who have served at least 25 years of incarceration. The State will continue to implement the Court-ordered elderly parole process until this matter is terminated or the February 10, 2014 Order is modified.

4. Male Community Reentry Programs:

Contracts for the San Diego County, Los Angeles County, Kern County, and Butte County Male Community Reentry Programs are in place. The State continues to review and refer eligible inmates for placement consideration. As of January 8, 2020, 614 inmates are housed in Male Community Reentry Program facilities. The State of California's 2019-2020 Budget includes $7.5 million General Fund for CDCR's reentry facilities, a portion of which are allocated to expand the Male Community Reentry Program facility in Los Angeles by 10 beds.

5. Expanded alternative custody program:

The State's expanded alternative custody program for females, Custody to Community Transitional Reentry Program (CCTRP), provides female inmates with a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support. Female inmates in the CCTRP are housed at facilities located in San Diego, Santa Fe Springs, Bakersfield, Stockton, and Sacramento. As of January 8, 2020, 342 female inmates are participating in the CCTRP. The State of California's 2019-2020 Budget includes $7.5 million General Fund for CDCR's reentry facilities, a portion of which are allocated to establish two new 60-bed female CCTRP facilities in Los Angeles and Riverside

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[1] This number does not include inmates released from fire camps.

[2] This statistic only concerns inmates in out-of-state contract beds and does not include inmates housed in other states under interstate compact agreements.

Three-Judge Court Status Reports & Filings

For copies of status reports and other important filings pertaining to this case, **contact the Office of Public and Employee Communications** at (916) 445-4950.

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