



# *Senators Holly J. Mitchell and Lara*

## *SB 1393 Fair and Just Sentencing Reform: 5-year Enhancement*

### **THIS BILL**

SB 1393 is a moderate reform that would increase the fairness of the justice system. The bill amends Penal Code Sections 667 and 1385 to restore the court's discretion, in the interest of justice and at the time of sentencing, to strike sentence enhancements for prior serious felony convictions, when a person is currently charged with a serious felony. Allowing judicial discretion is consistent with other sentence enhancement laws and retains existing sanctions for serious crimes.

### **BACKGROUND**

California has some of the most severe sentence enhancements for prior convictions in the nation. As of 2016, 79% of people under California Department of Corrections and Rehabilitation (CDCR) custody had some kind of sentence enhancement attached to their base sentence; 25% had three or more enhancements stacked on top of each other. One of the most frequently used is the mandatory five-year enhancement for prior convictions of serious offenses, which is applied consecutively for each prior conviction. This enhancement is often served in addition to lengthy sentence enhancements already imposed under the Three Strikes Law, which doubles or triples the length of a base sentence, or adds 25-years-to-life, for the same prior convictions.

These mandatory sentencing enhancements have resulted in a rigid and arbitrary system that has meted out punishments that are severely disproportionate to the person's culpability and that do not serve the interests of justice or public safety. Further, there is no conclusive evidence that sentence enhancements benefit public safety. Despite not making our community safer, sentence enhancements are a significant burden on California taxpayers and communities: each additional year that is applied costs California taxpayers upwards of \$70,000 dollars per incarcerated person. By reducing the use of unnecessary enhancements, California can divest

from expensive and ineffective policies of mass incarceration and invest in our communities.

California voters have made a resounding cultural shift away from prioritizing excessive incarceration in favor of less harsher sentences, expanded reentry services, prevention and community reinvestment. In 2016, voters overwhelmingly passed Proposition 57, which allows judges rather than prosecutors to determine whether youth are tried as adults. Californians strongly believe in the importance of judicial discretion and its role of creating a fair justice system.

In 2017, the same shift was conveyed by the California legislature with the passage of SB 620 (Bradford, Chapter 682) which added judicial discretion in the application sentencing enhancements for prior convictions involving guns.

Sentencing enhancements for prior convictions result in extreme periods of incarceration and have been the primary drivers of prison overcrowding. The California prison system remains under Federal oversight for unconstitutional and overcrowded conditions. The ongoing prison overcrowding litigation indicates that prison capacity and related issues concerning conditions of confinement remain unresolved.

### **SOLUTION**

Nationwide, there is growing bipartisan support for reforming long and ineffective prison sentences. California law mandates an extra five years for every prior conviction for a serious offense when a person is charged with a serious offense. While most sentence enhancements can be declined if the judge believes they are unjust in a specific case, these enhancements are mandatory in all cases — judges are forbidden from tailoring these sentences to an individual's case and culpability. Trial courts should retain the discretion to dismiss sentencing enhancements for prior offenses based on the facts of the case in order to further the interest of justice.

## SPONSORS

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ACLU of California Center for Advocacy and Policy  
CHIRLA (Coalition for Humane Immigrant Rights)  
CA Coalition for Women Prisoners  
Californians United for a Responsible Budget  
Ella Baker Center  
Drug Policy Alliance  
Friends Committee on Legislation  
Pillars of the Community  
Tides Advocacy  
Women's Foundation of CA, Women's Policy  
Institute

## SUPPORT

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A New Way of Life Reentry Project  
Access Support Network  
Alameda County Public Defender, Brendon Woods  
Alliance San Diego  
American Friends Society Committee  
Asian Americans Advancing Justice California  
Bend the Arc  
BOLD Women Scholars, Cal State Fullerton  
CAADPE  
California Immigrant Policy Center  
Center for Educational Equity and Excellence  
Center for Juvenile and Criminal Justice  
Charity Apostolic Church  
City of Los Angeles, Office of the Mayor Eric Garcetti  
Contra Costa County Racial Justice Coalition  
Courage Campaign  
Crossroads, Inc.  
Daily KOS  
East Bay Community Law  
Fair Chance Project  
Felony Murder Elimination Project  
Greenlining Institute  
Harm Reduction Coalition  
HealthRight360  
Hope Without Limits  
Human Impact Partners  
Immigrant Legal Resource Center  
Justice Now  
Law Enforcement Action Partnership  
Lawyer's Committee for Civil Rights  
Los Angeles Regional Reentry Partnerships  
Oakland Law Collaborative  
Oakland Rising  
Our Family Coalition  
Partnership for the Advancement of New Americans  
PICO California  
Prison Policy Initiative

Prison Renaissance  
Project Rebound, California State University,  
Sacramento  
Public Health Justice Collective  
Rainwater and Associates  
Restaurant Opportunities Centers CA, United  
Restore Oakland  
Research Development Association  
Riverside Temple Beth El  
Root N Rebound  
Rubicon Programs  
San Diego Immigrant Rights Consortium  
San Francisco Public Defender, Jeff Adachi  
Students Against Mass Incarceration, University  
California San Diego  
Successful Reentry  
Standing Up for Racial Justice  
Survived & Punished  
Tarzana Treatment Centers  
The Black Caucus of the California Community  
Colleges  
Time For Change Foundation  
Underground Scholars, University of California  
Berkeley  
University of Southern California Cannabis  
W. Hayward Burns Institute  
Western Center on Law & Poverty  
White People 4 Black Lives  
77 incarcerated individuals  
9 individuals

## OPPOSITION

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Association for Los Angeles Deputy Sheriffs  
California District Attorneys Association  
California State Sheriffs' Association  
California Police Chief Association Inc.  
Los Angeles Protective League  
Peace Officers Research Association of California

## FOR MORE INFORMATION

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