



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

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

A New PATH (Parents for Addiction Treatment and
Healing)
A New Way of Life Reentry Project
Access Support Network
Alameda County Public Defender, Brendon Woods
Alliance San Diego
American Friends Service Committee
Asian Americans Advancing Justice - California
Bay Area Equal Voice Coalition
Bay Area Chapter Resource Generation
Bend the Arc
Black Caucus of the California Community Colleges
BOLD Women Scholars, Cal State Fullerton
California Association of Alcohol and Drug Program
Executives, Inc.
California Attorneys for Criminal Justice
California Calls
California Immigrant Policy Center
Californians for Safety and Justice
California Public Defenders Association
California School-Based Health Alliance
Causa Justa Just Cause
Center for Educational Equity and Excellence
Center for Employment Opportunities
Center for Living and Learning
Center for Study of Racism, Social Justice, and Health,
University of California Los Angeles
Center on Juvenile and Criminal Justice
City of Los Angeles, Office of the Mayor Eric Garcetti
Coleman Advocates for Children and Youth
Community Works West
Congregations Organized for Prophetic Engagement
Contra Costa County Racial Justice Coalition
Courage Campaign
Crossroads, Inc.
Critical Resistance
Cut50

Daily KOS
Dr. Martin Luther King Jr. Academic Middle School
East Bay Community Law Center
ENLACE
Equality Justice Society
Essie Justice Group
Fair Chance Project
Families Against Mandatory Minimums
Fathers and Families of San Joaquin
Felony Murder Elimination Project
Greenlining Institute
Harm Reduction Coalition
Harm Reduction Services
HealthRight360
Homeboy Industries
Human Impact Partners
Immigrant Legal Resource Center
Justice 4 Families
Justice Now
Law Enforcement Action Partnership
Lawyer's Committee for Civil Rights
Los Angeles Regional Reentry Partnerships
Monterey County Public Defender
Motivating Individual Leadership for Public
Advancement
National Association of Social Workers, California
Chapter
Oakland Law Collaborative
Oakland Rising
Our Family Coalition
Partnership for the Advancement of New Americans
PICO California
Prison Policy Initiative
Prison Law Office
Prison Renaissance
Prisoner Advocacy Network, National Lawyers Guild
- SF Bay Area Chapter
Project Rebound, California State University,
Fullerton
Project Rebound, California State University,
Sacramento
Public Health Justice Collective
Rainwater and Associates
Restaurant Opportunities Centers CA, United
Restore Justice
Restore Oakland
Research Development Association
Riverside Temple Beth El
Root & Rebound
Rubicon Programs
San Diego Immigrant Rights Consortium
San Francisco Public Defender, Jeff Adachi
Showing Up for Racial Justice, Bay Area
Showing Up for Racial Justice, Long Beach
Showing Up for Racial Justice, Los Angeles

Sin Barras
Solidarity Sunday's
Students Against Mass Incarceration, University
California San Diego
Students for Sensible Drug Policy
Successful Reentry
Survived & Punished
Swords to Plowshares
Tarzana Treatment Centers
Think Dignity
Time For Change Foundation
Transgender Intersex Justice Project
Transition Clinic, San Francisco
UnCommon Law
Underground Scholars, University of California
Berkeley
University of Southern California Cannabis
Venice Community Housing Corporation
W. Hayward Burns Institute
Western Center on Law & Poverty
Western Regional Advocacy Project
White People 4 Black Lives

- 83 from incarcerated individuals
- 12 from individuals

OPPOSITION

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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