



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.

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