



Agenda

LEGISLATION COMMITTEE

September 14, 2020
1:00 P.M.
Virtual Meeting

Join from PC, Mac, Linux, iOS or Android:
<https://cccouny-us.zoom.us/j/3501763799>

Or Telephone:
US: +1 669 900 6833 or +1 408 638 0968
Meeting ID: 350 176 3799

Find local AT&T Numbers:
<https://cccouny-us.zoom.us/u/abIqjFb5lB>

Supervisor Karen Mitchoff, Chair
Supervisor Diane Burgis, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. **RECEIVE and APPROVE the Record of Action for the July 13, 2020 meeting of the Legislation Committee, with any necessary corrections.**
4. **CONSIDER the ballot measures Proposition 20, Proposition 21, and Proposition 23, which have qualified for the November 3, 2020 general election and make recommendations, if any, to the Board of Supervisors on those measures.**
5. **RECEIVE the report on the 2020 End of Session and provide direction to staff and advocates, as needed.**
6. The next meeting is currently scheduled for October 12, 2020 at 1:00 p.m.
7. Adjourn

The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and

distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 1025 Escobar St., 4th Floor, Martinez, during normal business hours.

Persons who wish to address the Legislation Committee during public comment or with respect to an item that is on the agenda may submit public comments before or during the meeting by email, voicemail or online participation as described below:

1) Email to lara.delaney@cao.cccounty.us In the subject line, please include "Legislation" and enter the agenda item number and description. (At least one full work day prior to the published meeting time.)

2) Voicemail at (925) 655-2057. The caller should start the message by stating "Legislation Committee public comments – not on the agenda" or "Legislation Committee public comments – agenda item #", followed by the caller's name and comments.

3) To participate directly in the meeting please click the following link:

<https://us02web.zoom.us/j/3501763799>

Request to speak by using the "raise hand" function.

4) To participate directly in the meeting by phone call: 1-669-900-6833 (Toll Free), ID 350 176 3799. Request to speak by dialing #2.

Commenters will be limited to three (3) minutes each. Comments submitted by email or voicemail will be included in the record of the meeting but will not be read or played during the meeting.

For Additional Information Contact:

Lara DeLaney, Committee Staff
Phone (925) 655-2057, Fax (925) 655-2066
lara.delaney@cao.cccounty.us



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

3.

Meeting Date: 09/14/2020
Subject: Record of Action for Legislation Committee Meeting
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2020-17
Referral Name: Record of Action
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting.

Referral Update:

Attached is the draft Record of Action for the July 13, 2020 meeting.

Recommendation(s)/Next Step(s):

RECEIVE and APPROVE the Record of Action for the July 13, 2020 meeting.

Attachments

DRAFT Record of Action

DRAFT



LEGISLATION COMMITTEE

RECORD OF ACTION FOR
July 13, 2020

Supervisor Karen Mitchoff, Chair
Supervisor Diane Burgis, Vice Chair

Present: Karen Mitchoff, Chair
Diane Burgis, Vice Chair
Staff Present: Lara DeLaney, Senior Deputy County Administrator, staff to Committee
Attendees: James Gross, Michelle Rubalcava; approx. 20 Members of the Public

1. Introductions

Chair Mitchoff and Vice Chair Burgis introduced themselves.

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

No public comment was offered.

3. RECEIVE and APPROVE the Record of Action for the June 8, 2020 meeting.

The Record of Action was approved as presented.

AYE: Chair Karen Mitchoff
Vice Chair Diane Burgis

4. Consider making a recommendation to the Board of Supervisors to not allow for Microenterprise Home Kitchen Operations to be established in Contra Costa County.

The Committee received an oral report from Jocelyn Stortz, Director of Environmental Health. The Committee Members asked questions about the use of commercial kitchens, the possibility of surprise inspections, and potential permit costs. Committee Members expressed concerns about authorizing the establishment of a program at this time and indicated it could be reconsidered in the future. The Committee directed staff to send the report to the Board of Supervisors on Consent, with the recommendation to not proceed with opting-in, at this time.

AYE: Chair Karen Mitchoff
Vice Chair Diane Burgis

5. Receive the report on the State Budget and State Legislation of Interest and provide direction to staff and advocates, as needed.

The Committee received the report and had no direction for staff.

AYE: Chair Karen Mitchoff
Vice Chair Diane Burgis

6. Consider the measures that have qualified for the November 3, 2020 general election and make recommendations on positions to the Board of Supervisors, as needed.

The Committee considered the measures on the November 3, 2020 ballot, received input from the public, and took the following actions:

Number	Subject	Committee Action	
1	Proposition 14	Stem Cell Research	SUPPORT to Board of Supervisors
2	Proposition 15	The "split-roll" initiative	SUPPORT to Board of Supervisors
3	Proposition 16	Affirmative Action	SUPPORT to Board of Supervisors
4	Proposition 17	Parolee voting	SUPPORT to Board of Supervisors
5	Proposition 18	Voting Age	SUPPORT to Board of Supervisors
6	Proposition 19	Property Tax Base Transfers	Send to Board in August. No Committee Recommendation
7	Proposition 20	Criminal Sentencing, Parole, and DNA Collection initiative	Back to Legislation Committee
8	Proposition 21	Rent Control	Back to Legislation Committee
9	Proposition 22	Gig Worker Classification	Send to Board in August. No Committee Recommendation
10	Proposition 23	Kidney Dialysis Clinics	Back to Legislation Committee
11	Proposition 24	Consumer data privacy	NO POSITION
12	Proposition 25	Bail Reform Referendum	SUPPORT to Board of Supervisors

AYE: Chair Karen Mitchoff
Vice Chair Diane Burgis

7. The next meeting is currently scheduled for August 10, 2020.

The August 10 meeting of the Legislation Committee was subsequently cancelled.

AYE: Chair Karen Mitchoff
Vice Chair Diane Burgis

8. Adjourn

For Additional Information Contact:

Lara DeLaney, Committee Staff
Phone (925) 335-1097, Fax (925) 646-1353
lara.delaney@cao.cccounty.us



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

4.

Meeting Date: 09/14/2020

Subject: November 3, 2020 Ballot Measures: Propositions 20, 21, and 23

Submitted For: LEGISLATION COMMITTEE,

Department: County Administrator

Referral No.: 2020-18

Referral Name: November Ballot Measures

Presenter: L. DeLaney and Nielsen Merksamer
Team

Contact: L. DeLaney,
925-335-1097

Referral History:

At their July 13, 2020 meeting, the Legislation Committee requested that staff return ballot measures Proposition 20, Proposition 21, and Proposition 23 to the Committee for further consideration.

Referral Update:

1. Proposition 20

RESTRICTS PAROLE FOR NON-VIOLENT OFFENDERS. AUTHORIZES FELONY SENTENCES FOR CERTAIN OFFENSES CURRENTLY TREATED ONLY AS MISDEMEANORS. INITIATIVE STATUTE.

Imposes restrictions on parole program for non-violent offenders who have completed the full term for their primary offense. Expands list of offenses that disqualify an inmate from this parole program. Changes standards and requirements governing parole decisions under this program. Authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors, including some theft crimes where the value is between \$250 and \$950. Requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: 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.

The CSAC staff analysis of Prop. 20, which recommended "No position" on the measure, can be

found in [Attachment A](#).

The Official Voter Information Guide provides a summary of [Prop. 20](#). [Ballotpedia](#) provides additional information about **Prop. 20**.

2. **Proposition 21**

EXPANDS LOCAL GOVERNMENTS' AUTHORITY TO ENACT RENT CONTROL ON RESIDENTIAL PROPERTY. INITIATIVE STATUTE.

Amends state law to allow local governments to establish rent control on residential properties over 15 years old. Allows rent increases on rent-controlled properties of up to 15 percent over three years from previous tenant's rent above any increase allowed by local ordinance. Exempts individuals who own no more than two homes from new rent-control policies. In accordance with California law, provides that rent-control policies may not violate landlords' right to a fair financial return on their property. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Potential reduction in state and local revenues of tens of millions of dollars per year in the long term. Depending on actions by local communities, revenue losses could be less or more. ([19-0001](#).)

The Official Voter Information Guide provides information for [Prop. 21](#). [Ballotpedia](#) provides additional information about **Prop. 21**.

3. **Proposition 23**

AUTHORIZES STATE REGULATION OF KIDNEY DIALYSIS CLINICS. ESTABLISHES MINIMUM STAFFING AND OTHER REQUIREMENTS. INITIATIVE STATUTE.

Requires at least one licensed physician on site during treatment at outpatient kidney dialysis clinics; authorizes Department of Public Health to exempt clinics from this requirement due to shortages of qualified licensed physicians if at least one nurse practitioner or physician assistant is on site. Requires clinics to report dialysis-related infection data to state and federal governments. Requires state approval for clinics to close or reduce services. Prohibits clinics from discriminating against patients based on the source of payment for care. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Increased state and local health care costs, likely in the low tens of millions of dollars annually, resulting from increased dialysis treatment costs. ([19-0025A1](#).)

The Official Voter Information Guide provides a summary of [Prop. 23](#). [Ballotpedia](#) also provides information about **Prop. 23**.

[CalMatters](#) offers a comprehensive 2020 Election Guide with a summary of all qualified ballot measures.

A summary of these three measures from the [LA Times](#) is as follows.

"Proposition 20: Tougher on parole, property crimes

California voters have weighed in twice in recent years to reduce the punishment for crimes

considered by existing law to be among those less serious than violent felonies. In 2014, Proposition 47 was passed to reduce the penalties for some theft and drug crimes. In 2016, Proposition 57 offered a chance of parole to some serving prison sentences for crimes that don't fall on the state's list of violent crimes.

Both laws have been the subject of intense debate over whether they are the right step toward reducing the prison population and promoting rehabilitation or a wrong step that has led to an escalation in crime by repeat offenders.

This ballot measure would place new limits on some of the sentence reductions included in Proposition 47 and Proposition 57. It would allow some theft-related crimes to be charged as felonies and it would create two new crimes: serial theft (applicable only to a select list of crimes and to defendants who have prior convictions for certain crimes) and organized retail theft (two or more people involved in some theft crimes within a 180-day period). Both crimes could result in jail time.

Proposition 20 also would change the 2016 parole law championed by then-Gov. Jerry Brown, which blocked inmates convicted of crimes including human trafficking and solicitation from being considered for early release. It also would change some of the rules that must be followed by the state Board of Parole Hearings and community probation programs. And it would expand DNA testing to require samples be taken from some people convicted of theft and domestic violence.

Proposition 21: Rent control redux

Growing concerns over California's lack of affordable housing have made rent control — a government-imposed cap on what landlords can charge their tenants — a hot topic in the state's biggest cities and at the state Capitol. Last year, Gov. Gavin Newsom signed a law restricting annual rent increases to no more than 5% plus inflation, one of the strictest statewide caps on rent hikes in the country.

That law was written after California voters rejected a statewide rent control measure in 2018 championed by Los Angeles activist Michael Weinstein. This year, he's trying again. Weinstein filed his new initiative just months after the defeat of his former effort, Proposition 10.

The 2018 ballot measure would have rescinded a state law that limits new local rent control ordinances. Proposition 21 is more modest, and would instead narrow that law. If it passes, cities and counties could apply rent control to housing that is more than 15 years old, with the exception of some single-family homes. The ballot measure would allow local governments to impose limits on rent increases when a new renter moved in.

The measure would supersede any local rent control rules. In Los Angeles, for example, it could mean many more housing units would be eligible for limits on what a landlord could charge.

Proposition 23: Kidney dialysis clinic rules revisited

Like the do-over ballot measure on rent control, this is the second straight November election in which California voters will be asked to approve a new law governing kidney dialysis clinics in the state.

About 600 dialysis clinics in California serve about 80,000 patients per month, according to a state legislative analysis. To address the patients' needs, clinics often operate longer hours each day and are open for six days a week.

The ballot measure would require every clinic to have at least one physician present during all operating hours. The clinics would have to offer the same level of care to all patients, regardless of whether the treatment is paid for by private insurance or a government-funded program such as Medi-Cal or Medicare. Clinic administrators would have to report more information about infections among their dialysis patients, and the state Department of Public Health would have a new role in agreeing to changes at a clinic or its closure.

The initiative was placed on the ballot by a union representing healthcare workers and will be opposed by the dialysis clinics, with other healthcare industry groups also weighing in by election day. These were largely the same forces that fought it out over Proposition 8 in 2018, which also would have imposed new rules on dialysis clinics and was rejected by voters."

Recommendation(s)/Next Step(s):

CONSIDER the ballot measures Prop. 20, Prop. 21, and Prop. 23 and make recommendations, if any, to the Board of Supervisors on those measures.

Attachments

CSAC Analysis of Prop. 20

**OFFICERS****President**

Lisa A. Bartlett
Orange County

1st Vice President

James Gore
Sonoma County

2nd Vice President

Ed Valenzuela
Siskiyou County

Past President

Virginia Bass
Humboldt County

**EXECUTIVE DIRECTOR**

Graham Knaus

July 23, 2020

To: CSAC Administration of Justice Committee

From: Josh Gauger, CSAC Legislative Representative
Stanicia Boatner, CSAC Legislative Analyst

Re: 2020 Ballot Initiative: Proposition 20 – Reducing Crime and Keeping California Safe Act of 2018 – ACTION ITEM

Recommendation

Staff recommends the Administration of Justice policy committee recommend “no position” to the CSAC Executive Committee and Board of Directors.

Summary

This measure amends state law to (1) increase penalties for certain theft-related crimes, (2) change the California Department of Corrections and Rehabilitation’s (CDCR) existing non-violent offender release consideration process, (3) change county probation community supervision practices, and (4) require DNA collection from adults convicted of certain misdemeanors.

Background

The criminal justice system has undergone several significant changes over the last decade. These changes primarily intended to reduce county jail and state prison populations, costs of incarceration, and improve reentry and recidivism outcomes among the offender population. Proposition 20 proposes several amendments that overlap with these measures.

AB 109/2011 Public Safety Realignment

What it did: Among other changes, Chapter 15, Statutes of 2011 (AB 109) changed adult criminal sentencing so that lower-level—non-serious, non-violent, and non-sex registrant—felons served their sentences in county jail rather than state prison. Under AB 109, offenders convicted of a current non-serious, non-violent, and non-sex registrant felony are still sentenced to state prison if they have a prior conviction for a serious or violent felony or felony subjecting the offender to registration as a sex offender. The non-serious, non-violent, and non-sex registrant population currently being sentenced to state prison under this provision is now released on Post-Release Community Supervision (county probation oversight) rather than state parole. AB 109 was part of the broader 2011 Public Safety Realignment and the source of funding for counties to fulfill these responsibilities is protected under the constitutional amendments passed in Proposition 30 (2012). AB 109-related reforms also included new “tools” for managing the offender population which became a county responsibility, including “split sentences” and “flash incarceration.” Split sentences require a period of Mandatory Supervision on county probation after a period of jail incarceration—similar to state parole. Separately, flash incarceration is an alternative sanction that may be utilized to require a short

(up to 10 days) jail incarceration as a response to a violation of the terms and conditions of community supervision (relevant here is Post-Release Community Supervision).

How Proposition 20 would change it: This ballot measure would *require* a supervising county agency to petition the court to revoke, modify, or terminate Post-Release Community Supervision, if the supervised person has violated the terms of their release for a third time. Meaning, a third violation would preclude the use of alternative sanctions by probation departments. Additionally, Proposition 20 *requires*, upon a decision to impose a period of flash incarceration, the probation department to notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.

Proposition 47 (2014)

What it did: Proposition 47 implemented three broad changes to felony sentencing laws. First, it reclassified certain theft and drug possession offenses from felonies to misdemeanors unless the defendant has prior convictions for murder, rape, or certain sex or gun offenses. Second, it authorized defendants currently serving sentences for felony offenses that would have qualified as misdemeanors under the proposition to petition courts for resentencing under the new misdemeanor provisions, subject to certain severe crimes noted above. Third, it authorized defendants who have completed their sentences for felony convictions that would have qualified as misdemeanors under the proposition to apply to reclassify those convictions to misdemeanors, subject to certain severe crimes noted above. Additionally, the measure required state savings resulting from the implementation of the act to be transferred to a new fund for specified grant programs.

How Proposition 20 would change it: This ballot measure would make multiple changes to criminal sentencing which was impacted by Proposition 47.

- First, because DNA collection is generally authorized for felony convictions, as specified, individuals convicted of crimes that Proposition 47 reclassified from felonies to misdemeanors are no longer subject to DNA collection. Proposition 20 would add numerous misdemeanor convictions to the list of crimes or circumstances in which DNA collection is authorized. Examples include, shoplifting, possession of a controlled substance, assault or battery on school property when school activities are being conducted, disorderly conduct, or certain domestic violence crimes.
- Second, under current law (as impacted by Proposition 47) theft of money or property worth less than \$950 is generally charged as petty theft or shoplifting—generally misdemeanors punishable by up to six months in county jail. Proposition 20 would specify that crimes such as identity theft, forgery, and unauthorized use of a vehicle cannot be charged as petty theft or shoplifting regardless of the value. Alternatively, Proposition 20 would have these crimes charged as “wobblers”—if charged as a misdemeanor, punishable by up to one year in jail, and if charged as a felony, punishable by up to three years in jail or prison.
- Third, Proposition 20 creates new crimes: serial theft and organized retail theft, as specified. These new crimes would apply to offenders who have been previously convicted two or more times on separate occasions of certain retail theft, petty theft, shoplifting, and other specified crimes. Similarly, these new crimes would be “wobblers” punishable by up to three years in jail.

Proposition 57

What it did: Proposition 57 reformed the juvenile and adult criminal justice system in California by (1) creating a parole consideration process for non-violent offenders who have served the full term for their primary criminal offense in state prison; (2) authorizing the CDCR to award credits earned for good conduct and approved rehabilitative or educational achievements; and (3) requiring judges to determine whether juveniles charged with certain crimes should be tried in juvenile or adult court. Pertinent to Proposition 20, offenders can be convicted of multiple crimes, including a primary crime for which they receive the longest amount of prison time. They can serve additional time due to certain case factors (e.g., use of a weapon or previous convictions). Proposition 57 allowed inmates convicted of non-violent felonies (as defined by current law) to be considered for release by the Board of Parole Hearings (BPH) after serving the term for their primary crimes.

How Proposition 20 changes it: This ballot measure classifies additional crimes as “violent” for the purposes of the Proposition 57 parole review process, which results in more individuals being excluded from review, and creates a higher threshold for release consideration. Additionally, the measure allows prosecutors to request a review of BPH release decisions. Under this proposition, violent crimes would now include crimes such as assault, domestic violence, specified human trafficking crimes, and solicitation to commit murder. Lastly, Proposition 20 would create additional review factors for the BPH and delay any reviews after a denial to two years (rather than one).

Proposition 20 Fiscal Impact

The Legislative Analyst’s Office and Department of Finance estimate 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 non-violent offender release consideration process. Additionally, they estimate increased state and local court-related costs of around a few million dollars annually related to processing probation revocations and additional felony theft filings. Lastly, there could be 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.

Given the overlap with crimes reclassified under Proposition 47, this ballot measure could also reduce the state savings that is annually made available for certain grant programs.

Arguments in Support

Proponents of Proposition 20 generally argue that, despite the violent nature, certain crimes are incorrectly designated as non-violent under California law. Because they are designated as non-violent, offenders serving current state prison terms for these crimes are eligible for parole consideration after serving the full term for their primary offense (Proposition 57 early parole review process). This measure would designate these crimes as “violent” for the purposes of this review and, therefore, make the offenders ineligible for early parole consideration. Additionally, proponents argue that Proposition 20 provides protection against violent crime by allowing DNA collection from persons convicted of theft or drug offenses. Lastly, they argue that Proposition 20 strengthens sanctions against serial theft.

Arguments in Opposition

Opponents of Proposition 20 generally argue that California already has lengthy sentences and strict punishment for serious and violent crime and this measure would unnecessarily result in tens of millions of dollars being spent on prisons while cutting rehabilitation programs and support for crime victims. Additionally, opponents argue that increasing penalties for theft-related crimes will have a disproportionate impact on Black, Latino, and low-income individuals. Lastly, they argue that California has made progress by enacting criminal justice reforms to reduce prison spending and expand rehabilitation and this measure would repeal California's progress.

Policy Considerations

Proposition 20 includes elements that are both consistent with prior CSAC positions on related measures and inconsistent with CSAC's policy platform and positions.

AB 109 (No Position): CSAC did not have a formal position on AB 109 but actively negotiated the terms of 2011 Public Safety Realignment with an emphasis on local control and fiscal protections. Proposition 20 reduces flexibility afforded under AB 109 as it relates to county probation department decision making for violations of the terms and conditions of Post-Release Community Supervision. This reduced flexibility could result in increased jail incarceration and potentially increased jail costs which would have to be funded within existing county resources.

The CSAC 2011 Realignment platform states that CSAC will oppose efforts that limit county flexibility in implementing programs and services realigned in 2011 or infringe upon our individual and collective ability to innovate locally. Additionally, the AOJ Policy Platform states that the most cost-effective method of rehabilitating convicted persons is the least restrictive alternative that is close to the individual's community and should be encouraged where possible.

Proposition 47 (OPPOSE): CSAC opposed Proposition 47 which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permitted certain offenders to petition for resentencing. Supporting Proposition 20 may be consistent with this prior position. However, it should be considered with the trade-offs of increased incarceration and the following relevant AOJ Policy Platform positions:

- Given that local and state corrections systems are interconnected, true reform must consider the advantage—if not necessity—of investing in local programs and services to help the state reduce the rate of growth in the prison population.
- A shared commitment to rehabilitation can help address the inextricably linked challenges of recidivism and facility overcrowding. The most effective method of rehabilitation is one that maintains ties to an offender's community.

Additionally, each year state savings from the implementation of Proposition 47 is required to be transferred and re-allocated in grant programs, as specified in the initiative. The Budget

estimates total state savings of \$102.9 million for 2019-20. Proposition 20 could reduce state savings made available for these grant programs.

Proposition 57 (NEUTRAL): CSAC was “neutral” on Proposition 57. While Proposition 57 largely focuses on the management of the state prison and offender population, the decisions the state makes in implementing Proposition 57 undoubtedly impact counties due to the overall criminal justice continuum and close ties between the two systems. As cited above, the AOJ Policy Platform includes language related to helping the state reduce the rate of growth in the prison population and overcrowding.

Staff Contact

Please contact Josh Gauger at jgauger@counties.org or Stanicia Boatner at sboatner@counties.org.

Resources

- 1) [Title and Summary](#)
- 2) [Full text of Ballot Initiative](#)
- 3) [Fiscal Analysis by Legislative Analyst’s Office](#)

BALLOT TITLE AND SUMMARY

RESTRICTS PAROLE FOR NON-VIOLENT OFFENDERS. AUTHORIZES FELONY SENTENCES FOR CERTAIN OFFENSES CURRENTLY TREATED ONLY AS MISDEMEANORS. INITIATIVE STATUTE.

- Limits access to parole program established for non-violent offenders who have completed the full term of their primary offense by eliminating eligibility for certain offenses.
- Changes standards and requirements governing parole decisions under this program.
- Authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors, including some theft crimes where the value is between \$250 and \$950.
- Requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database.

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

- Increased state and local correctional costs likely in the tens of millions of dollars annually, primarily due to increases in county jail populations and levels of community supervision.
- Increased state and local court-related costs that could be more than several million dollars annually.
- Increased state and local law enforcement costs not likely to be more than a few million dollars annually related to collecting and processing DNA samples.

RECEIVED
JUL 13 2020
OFFICE OF THE ATTORNEY GENERAL

**OFFICIAL TITLE AND
SUMMARY PREPARED BY
THE ATTORNEY GENERAL**

**SUBJECT TO COURT
ORDERED CHANGES**

Date: 11/14/2017**RECEIVED****NOV 28 2017****INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE**

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.

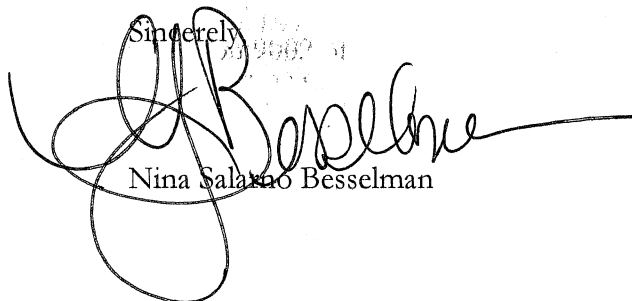
I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

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
cbell@bmhlaw.com
(916) 442-7757

Thank you for your time and attention processing my request.

Sincerely,



Nina Salano 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.

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(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;

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- (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

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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

17-0044

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.

Proposition 20
Restricts Parole for Non-Violent Offenders.
Authorizes Felony Sentences for Certain Offenses Currently Treated
Only as Misdemeanors. Initiative Statute.

OVERVIEW

Proposition 20 has four major provisions. It:

- Changes state law to increase criminal penalties for some theft-related crimes.
- Changes how people released from state prison are supervised in the community.
- Makes various changes to the process created by Proposition 57 (2016) for considering the release of inmates from prison.
- Requires state and local law enforcement to collect DNA from adults convicted of certain crimes.

Below, we discuss each of these major provisions and describe the fiscal effects of the proposition.

CRIMINAL PENALTIES FOR CERTAIN THEFT-RELATED CRIMES

Background

A felony is the most severe type of crime. State law defines some felonies as “violent” or “serious,” or both. Examples of felonies defined as violent and serious include murder, robbery, and rape. Felonies that are not defined as violent or serious include human trafficking and selling drugs. A misdemeanor is a less severe crime. Misdemeanors include crimes such as assault and public drunkenness.

Felony Sentencing. People convicted of felonies can be sentenced as follows:

- **State Prison.** People whose current or past convictions include serious, violent, or sex crimes can be sentenced to state prison.
- **County Jail and/or Community Supervision.** People who have no current or past convictions for serious, violent, or sex crimes are typically sentenced to county jail or are supervised by county probation officers in the community, or both.

Misdemeanor Sentencing. People convicted of misdemeanors can be sentenced to county jail, county community supervision, a fine, or some combination of the three. They are generally punished less than people convicted of felonies. For example, a misdemeanor sentence cannot exceed one year in jail while a felony sentence can require a much longer time in jail or prison. In addition, people convicted of misdemeanors are usually supervised in the community for fewer years and may not be supervised as closely by probation officers.

Wobbler Sentencing. Currently, some crimes—such as identity theft—can be punished as either a felony or a misdemeanor. These crimes are known as “wobblers.” The decision is generally based on the specifics of the crime and a person’s criminal history.

Proposition 47 Reduced Penalties for Certain Crimes. In November 2014, voters approved Proposition 47, which resulted in certain theft-related crimes being punished as misdemeanors instead of felonies. For example, under Proposition 47, theft involving property worth \$950 or less is generally considered petty theft and punished as a misdemeanor—rather than as a felony as was sometimes possible before (such as if a car was stolen). Proposition 47 also generally requires that shoplifting involving \$950 or less be punished as a misdemeanor—rather than a felony as was possible before.

Proposal

Increases Penalties for Certain Theft-Related Crimes. Proposition 20 creates two new theft-related crimes:

- ***Serial Theft.*** Any person with two or more past convictions for certain theft-related crimes (such as burglary, forgery, or carjacking) who is found guilty of shoplifting or petty theft involving property worth more than \$250 could be charged with serial theft.
- ***Organized Retail Theft.*** Any person acting with others who commits petty theft or shoplifting two or more times where the total value of property stolen within 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 county jail, even if the person has a past conviction for a serious, violent, or sex crime.

In addition, Proposition 20 allows some existing theft-related crimes that are generally punished as misdemeanors under Proposition 47 to be punished as felonies. For example, under current law, theft of all property worth less than \$950 from a store is generally required to be punished as a misdemeanor. Under Proposition 20, people who steal property worth less than \$950 that is not for sale (such as a cash register) from a store could receive felony sentences. This could increase the amount of time people convicted of these crimes serve. For example, rather than serving up to six months in county jail, they could serve up to three years in county jail or state prison.

We estimate that a few thousand people could be affected by the above changes each year. However, this estimate is based on the limited data available, and the actual number of people

affected would depend on choices made by prosecutors and judges. As a result, the actual number could be significantly higher or lower.

COMMUNITY SUPERVISION PRACTICES

Background

People who are released from state prison after serving a sentence for a serious or violent crime are supervised for a period of time in the community by state parole agents. People who are released from prison after serving a sentence for other crimes are usually supervised in the community by county probation officers—commonly referred to as Post-Release Community Supervision (PRCS). When people on state parole or PRCS break the rules that they are required to follow while supervised—referred to as breaking the “terms of their supervision”—state parole agents or county probation officers can choose to ask a judge to change the terms of their supervision. This can result in harsher terms or placement in county jail.

Proposal

Changes Community Supervision Practices. This proposition makes various changes to state parole and PRCS practices. For example, it requires probation officers to ask a judge to change the terms of supervision for people on PRCS if they have violated them for a third time. In addition, the proposition requires state parole and county probation departments to exchange more information about the people they supervise.

PROPOSITION 57 RELEASE CONSIDERATION PROCESS

Background

People in prison have been convicted of a primary crime. This is generally the crime for which they receive the longest amount of time in prison. They often serve additional time due to

the facts of their cases (such as if they used a gun) or for other, lesser crimes they were convicted of at the same time. For example, people previously convicted of a serious or violent crime generally must serve twice the term for any new felony they commit.

In November 2016, voters approved Proposition 57, which changed the State Constitution to make prison inmates convicted of nonviolent felonies eligible to be considered for release after serving the term for their primary crimes. Inmates are considered for release by the state Board of Parole Hearings (BPH). Specifically, a BPH staff member reviews various information in the inmate's files, such as criminal history and behavior in prison, to determine if the inmate will be released. BPH also considers any letters submitted by prosecutors, law enforcement agencies, and victims about the inmate. The California Department of Corrections and Rehabilitation (CDCR) contacts victims registered with the state to notify them that they can submit such letters. The inmate is released unless BPH decides that the inmate poses an unreasonable risk of violence. If not released, the inmate can request a review of the decision. Inmates who are denied release are reconsidered the following year, though they often complete their sentences and are released before then. In 2019, BPH considered nearly 4,600 inmates and approved about 860 (19 percent) for release.

Proposal

Changes Proposition 57 Release Consideration Process. Proposition 20 makes various changes to the Proposition 57 release consideration process. The major changes are:

- Excluding some inmates from the process—such as those convicted of some types of assault and domestic violence.

- Requiring BPH to deny release to inmates who pose an unreasonable risk of committing felonies that result in victims, rather than only those who pose an unreasonable risk of violence.
- Requiring BPH to consider additional issues, such as the inmates' attitudes about their crimes, when deciding whether to release them.
- Requiring inmates denied release to wait two years (rather than one) before being reconsidered by BPH.
- Allowing prosecutors to request that BPH perform another review of release decisions.
- Requiring CDCR to try to locate victims to notify them of the review even if they are not registered with the state.

DNA COLLECTION

Background

In California, DNA samples must be provided by (1) adults arrested for, charged with, or convicted of a felony; (2) youth who have committed a felony; and (3) people required to register as sex offenders or arsonists. These samples are collected by state and local law enforcement agencies and submitted to the California Department of Justice (DOJ) for processing. DOJ currently receives roughly 100,000 DNA samples each year. DOJ stores the DNA profiles in a statewide DNA database and submits them to a national database. These databases are used by law enforcement to investigate crimes.

Proposal

Expands DNA Collection. This proposition requires state and local law enforcement to also collect DNA samples from adults convicted of certain misdemeanors. These crimes include shoplifting, forging checks, and certain domestic violence crimes.

FISCAL EFFECTS

The proposition would have various fiscal effects on state and local government. However, the exact size of the effects discussed below would depend on several factors. One key factor would be decisions made by the courts and others (such as county probation departments and prosecutors) about how the proposition would be implemented. For example, the proposition seeks to change certain inmates' constitutional eligibility to be considered for release under Proposition 57 without changing the State Constitution. If the proposition were challenged in court, a judge might rule that certain provisions cannot be put into effect. Our estimates below of the fiscal effects on state and local government assume that the proposition is fully implemented. In total, the estimated increase in state costs reflects less than one percent of the state's current General Fund budget. (The General Fund is the state's main operating account, which it uses to pay for education, prisons, health care, and other services.)

State and Local Correctional Costs. The proposition would increase state and local correctional costs in three ways.

- First, the increase in penalties for theft-related crimes would increase correctional costs mostly by increasing county jail populations and the level of community supervision for some people.

- Second, the changes to community supervision practices would increase state and local costs in various ways. For example, the requirement that county probation officers seek to change the terms of supervision for people on PRCS who violate them for a third time could increase county jail populations if this causes more people to be placed in jail.
- Third, the changes made to the Proposition 57 release consideration process would increase state costs by reducing the number of inmates released from prison and generally increasing the cost of the process.

We estimate that more than several thousand people would be affected by the proposition each year. As a result, we estimate that the increase in **state and local correctional costs would likely be in the tens of millions of dollars annually**. The actual increase would depend on several uncertain factors, such as the specific number of people affected by the proposition.

State and Local Court-Related Costs. The proposition would increase state and local court-related costs. This is because it would result in some people being convicted of felonies for certain theft-related crimes instead of misdemeanors. Because felonies take more time for courts to handle than misdemeanors, workload for the courts, county prosecutors and public defenders, and county sheriffs (who provide court security) would increase. In addition, requiring probation officers to ask judges to change the terms of supervision for people on PRCS after their third violation would result in additional court workload. We estimate that these **court-related costs could be more than several million dollars annually**, depending on the actual number of people affected by the proposition.

State and Local Law Enforcement Costs. The proposition would increase state and local law enforcement costs by expanding the number of people who are required to provide DNA samples, possibly by tens of thousands annually. We estimate that the increase in **state and local law enforcement costs would likely not be more than a few million dollars annually.**

Other Fiscal Effects. There could be other unknown fiscal effects on state and local governments due to the proposition. For example, if the increase in penalties reduces crime, some criminal justice system costs could be avoided. The extent to which this or other effects would occur is unknown.



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

5.

Meeting Date: 09/14/2020

Subject: 2020 End of Session Report

Submitted For: LEGISLATION COMMITTEE,

Department: County Administrator

Referral No.: 2020-19

Referral Name: End of Session Report

Presenter: L. DeLaney and Nielsen Merksamer
Team

Contact: L. DeLaney,
925-335-1097

Referral History:

The Legislation Committee regularly receives reports from staff and the County's legislative advocates on state legislation of interest to the County. End of Session reports are routinely provided.

Referral Update:

Facing an August 31 midnight deadline to pass most bills, the Legislature finished its 2019-2020 session in the early morning hours on Tuesday. Like all sectors in California, the Legislature's year was marked by considerable challenges resulting from the COVID-19 pandemic, including extended recesses when statewide lockdown measures were first imposed and when two Assembly Members were diagnosed with COVID-19 in the summer.

Despite an abbreviated legislative calendar, the Legislature considered major proposals of concern to counties, including late-breaking bills dealing with opioid litigation and a proposal to close the State Department of Juvenile Justice and realign those responsibilities to counties. Other topics high on the agenda included wildfire and disaster resilience, justice reform, as well as workers' compensation legislation—not to mention a number of budget-related issues, including Realignment backfill funding to counties.

Governor Newsom has until September 30 to sign or veto these bills. Of major concern to Contra Costa County is the Governor's anticipated action on our sponsored bills, SB 1349 (Glazer) Transactions and Use Taxes: Contra Costa County and AB 2387 (Grayson) In Home Supportive Services: Needs Assessment.

The CSAC summary of key legislation by policy area is available at the following links:

[Administration of Justice Bill Roundup](#)

[Agriculture, Environment and Natural Resources Bill Roundup](#)

[Government, Finance and Administration Bill Roundup](#)

[Health and Human Services Bill Roundup](#)

[Housing, Transportation and Tribal Gaming Roundup](#)

The End-of-Session Legislative Update from the Urban Counties of California is included in [Attachment A](#).

The 2020 End of Session Memo from the County Healthy Executives Association of California is [Attachment B](#).

Media stories related to the End of Session include the following:

Walters: Legislature fails on police reform promises -- When the California Legislature folded up its tent 10 days ago, it left an extraordinary number of high-profile bills still awaiting final votes, and the finger-pointing has been underway ever since. Dan Walters [CalMatters](#)

How California's most pressing problems fell victim to Legislature's infighting -- When the state Senate leader's priority housing bill died as the clock struck midnight on the Legislature's annual session, it shone a spotlight on infighting that contributed to the stunning collapse this year of an agenda to tackle California's most pressing problems. Alexei Koseff in the [San Francisco Chronicle](#)

Skelton: Forget a special legislative session. California lawmakers first need to get their act together -- This was the ideal time — politically and policy-wise — for the Legislature and the governor to authorize loads of extra spending on wildfire prevention and helping victims. But they botched it. Shame on them. George Skelton in the [Los Angeles Times](#)

Recommendation(s)/Next Step(s):

Receive the report on the 2020 End-of-Session. Provide direction to staff on the development of the 2021-22 State Legislative Platform.

Attachments

[Attachment A: UCC End of Session Report](#)

[Attachment B: CHEAC End of Session Memo](#)

From: Grace Childs-Ferguson <grace@urbancounties.com>
Sent: Friday, September 4, 2020 7:24 PM
To: Grace Childs-Ferguson
Subject: UCC End-of-Session Legislative Update: September 4, 2020
Attachments: DJJ Realignment Allocations-DOF estimates.pdf



End-of-Session Legislative Update ■ September 4, 2020

We apologize in advance for the length of this message (it's long!). In the weeks to come, we will transition to a more traditional e-newsletter. Thanks for your patience!

Chaotic Last Night of 2019-20 Session Yields Assorted Wins and Losses

The 2019-20 legislative session is one for the record books. Recalling that the final night of deliberations in 2019 was halted for hours when a member of the public threw blood onto the Senate floor, it was hard to imagine how this year's pandemic-marred closing act could be stranger. Well, it was.

In the Senate, all but one member of the Republican Caucus participated in floor votes remotely given their collective exposure to a colleague early last week who later tested positive for COVID-19. (Senator Jim Nielsen apparently did not join the gathering where the caucus was exposed to the virus, so he was on the floor in person for the last night of session.) In addition to typical challenges of a Zoom meeting (members speaking on mute when they meant to be heard and, just as frequently, speaking on an open mic when the conversation was meant to be private), there were major partisan disagreements about limitations being placed on the number and length of time afforded to speakers. Tension in the Senate boiled over at one point following rather effective filibustering by the Republicans on a measure that sought to expand exceptions to last year's AB 5 (regarding "gig" work), forcing the house to shut down for an hour-long recess while the Senate caucus leaders spoke in private and agreed to a "reset." In the meantime, with the clock ticking, it became clear that the houses were going to run out of time to dispose of bills given that the Constitution imposes – with very limited exceptions (e.g., urgency measures or those that impose a tax levy or make an appropriation for the normal operations of the state) – a hard stop on deliberations and voting at midnight on the last night of the final year of a two-year session. Without getting too much into the inside baseball commentary, between the kerfuffle on the Senate floor and the associated time loss **and** the non-cooperation of the Assembly on some very consequential measures close to the heart of the Senate President pro Tem Toni Atkins, a number of bills died simply because the clock ran out. The hostage taking (in the form of bills) and efforts at leveraging

exposed a seemingly elevated level of inter-house dysfunction and hostility this year. Seems as though there are some wounds that will need healing before they get back at it next year.

Immediately below, we highlight several high-profile bills that were stranded due to time-clock issues, hostage taking, lack of sufficient votes, or some combination thereof. We then offer a rundown on the second round of 2020-21 trailer bills and associated status, followed by the outcomes on bills of interest organized by broad policy category. Remember, of course, that bills that land on the Governor's desk for action in the closing days of session fall into the 30-day signing period – meaning that the Governor must wrap up action on all enrolled measures by September 30.

Bill Stranded When the Clock Ran Out

- **[AB 6 \(Reyes\)](#)**: Would have conferred new authority on the Attorney General to settle opioid claims.
DIED in Senate budget committee: No action was taken after the bill was heard in the full Senate budget committee, where considerable opposition by counties and other stakeholders was expressed.
- **[AB 66 \(Gonzalez\)](#)**: Would have prohibited use of less-lethal weapons by police (e.g., tear gas and rubber bullets)
DIED in Senate: The bill was not taken up prior to midnight for purposes of transmitting to the Assembly for a final vote. (Some speculate that this measure was held hostage while the Senate awaited the return of SB 731, which did not occur.)
- **[SB 54 \(Allen\)/AB 1080 \(Gonzalez, et al.\)](#)**: Would have imposed a comprehensive regulatory scheme on producers, retailers, and wholesalers of single-use plastic packaging, as defined, and priority single-use plastic products.
Both measures DIED.
- **[SB 731 \(Bradford\)](#)**: Would have amended and expanded various provisions of existing law relating to police officer decertification and liability for civil rights violations.
DIED in Assembly: The bill was not taken up before midnight on August 31. Note that Senate President pro Tem Atkins and Senator Bradford issued a joint [statement](#) this week committing to continued work in this area next year.
- **[SB 776 \(Skinner\)](#)**: Would have expanded the categories of peace officer personnel records that are subject to disclosure under the Public Records Act
DIED in Senate: The bill was not eligible to be taken up by the Senate under the 72-hour in-print prior to the end of session given that the Assembly amended the measure on August 30.
- **[SB 977 \(Monning\)](#)**: Would have given the Attorney General greater oversight of health care acquisitions, mergers and other transactions between hospitals and health care providers.
DIED in Assembly: The bill was not taken up due to substantial opposition.
- **[SB 995 \(Atkins\)](#)**: Would have extended for four years the expedited California Environmental Quality Act (CEQA) administrative and judicial review procedure established by the Jobs and Economic Improvement Through Environmental Leadership Act for “environmental leadership development projects” and expands the Act’s eligibility to include smaller housing projects.
DIED in Senate: Time ran out before the Senate could concur in Assembly amendments and send to the Governor.
- **[SB 1085 \(Skinner\)](#)**: Would have made various changes to density bonus law, including providing additional benefits to certain moderate-income housing developments.
DIED in Senate: Time ran out before the Senate could concur in Assembly amendments and send to Governor’s desk.

- **SB 1120 (Atkins):** Would have promoted small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot in all residential areas.
DIED in Senate: Time ran out before the Senate could concur in Assembly amendments and send to Governor's desk.
- **SB 1138 (Wiener):** Would have amended housing element law requirements for zoning emergency shelters and expedited required rezoning for localities that fail to adopt a legally compliant housing element.
DIED in Senate: Time ran out before the Senate could concur in Assembly amendments and send to Governor's desk.

Round Two of 2020-21 Trailer Bills

The final set of trailer bills sent to the Governor is detailed below. Additional commentary on SB 823, the Division of Juvenile Justice (DJJ) realignment measure, is provided below.

Bill No.	Topic
AB 107	General Government (August clean-up)
AB 1864 (Limón)	Financial institutions: regulation: Department of Financial Protection and Innovation
AB 1867	Small employer family leave mediation: handwashing: supplemental paid sick leave
AB 1869	Criminal Justice Administrative Fees
AB 1872	Cannabis
AB 1876	Personal income taxes: federal individual taxpayer identification number: earned income tax credits: young child tax credit
AB 1885	Debtor exemptions: homestead exemption
AB 3330 (Calderon)	Department of Consumer Affairs: boards: licensees: regulatory fees
SB 115	Budget Bill Jr. (amendments to 2020 Budget Act)
SB 820	Education (August clean-up)
SB 823	Division of Juvenile Justice (DJJ) Realignment

**Note that one budget trailer bill – SB 832 – died on the Assembly Floor. That measure would have increased the value of the state's homestead exemption, which protects the value of a homeowner's home during bankruptcy proceedings.*

DJJ Realignment – With just hours to spare on Friday night before the final deadline to amend bills, significant revisions to SB 823 (and its twin, AB 1868, although the Senate bill ended up being the vehicle that moved forward to the Governor) appeared in print. These amendments reflected an agreement struck between the Administration and the Legislature on the proposal to close the Division of Juvenile Justice (DJJ) and realign the associated service responsibilities to counties. Counties and probation chiefs had been engaged, up to about 24 hours prior to the final agreement appearing in print, in days of intense negotiations with the Administration to shape and refine the framework for DJJ Realignment. However, the final agreement contained several key elements to the DJJ realignment structure to which the county coalition objected. Joined by the County Behavioral Health Directors Association (CBHDA), the three county associations – CSAC, UCC,

and RCRC, along with the Chief Probation Officers of California (CPOC) mounted a unified opposition campaign in the closing days of session. The Governor's Office was forced to deploy its own advocacy effort, which ultimately – but narrowly – pushed the measure across the finish line.

The county coalition raised the following specific concerns about SB 823:

- The agreement – unlike previous realignments – did not, in its final form, represent a partnership agreement with the entities charged with carrying out a new set of services.
- The proposal risks disrupting the most foundational juvenile funding streams and programs, where counties have shown success with our current local juvenile justice population, which represents more than 90% of the statewide total.
- The funding formula creates inequitable by-county allocations and does not create a “bridge to success” for those communities needing to build out local programmatic capacity or the appropriate infrastructure. The distribution methodology perpetuates concerns that the system will result in “justice by geography” and, because it is proposed to be revisited in its entirety in three years, does not create the certainty or stability for counties to make long-term investments.
- The proposal lacks a thoughtful, complete process for protecting against adult court commitments due to its rushed construction.
- Overall, counties are concerned that the approach to DJJ realignment in its totality does not provide counties the tools to succeed in delivering improved outcomes for this population of youth that has highly complex treatment needs.

HBE is preparing additional informational materials outlining the provisions in SB 823, which we will share next week. In the meantime, we are working collaboratively with our county and probation partners as we work to jointly drive solutions to the identified problems. It was gratifying that many members of the Legislature engaged on our behalf and committed to working on advancing changes to address the practical and structural concerns identified. We thank our sister association partners and all the individual county supervisors, executives, and advocates who helped weigh in during the closing days of session. We have attached in a separate document the county-by-county estimated allocations for DJJ realignment funding prepared by the Department of Finance. More to come on this important issue.

Health

AB 1544 (Gipson) – Enrolled

AB 1544 establishes the Community Paramedicine or Triage to Alternate Destination Act of 2020. The bill would permit local emergency medical services agencies (LEMSAs), with approval by the Emergency Medical Services Authority, to develop programs to provide community paramedic or triage to alternate destination services in one of the following specialties: 1) providing directly observed tuberculosis therapy; 2) providing case management services to frequent emergency medical services users; 3) providing hospice services to treat patients in their homes; and, 4) providing patients with transport to an alternate destination, which can either be an authorized mental health facility, or an authorized sobering center. The August 25th amendments reflect negotiations between the Newsom Administration and the sponsor (California Professional Firefighters). The provisions of the bill sunset on January 1, 2024. A coalition of county associations worked with the sponsor in 2019 to negotiate several amendments that allowed them to be neutral on the bill; the August 2020 amendments did not change the neutral position.

AB 2537 (Rodriguez) – Enrolled

AB 2537 requires hospitals to maintain a stockpile of three months of unexpired personal protective equipment (PPE) effective April 2021. The measure is sponsored by the California Nurses Association and was sent to the Governor for his consideration. A similar bill, SB 275, was also enrolled. It is unclear whether the Governor will sign both bills, which would create two different stockpile requirements on hospitals. The California Hospital Association has maintained their opposition to AB 2537 while moving to a neutral position on SB 275, which is detailed below.

SB 275 (Pan) – Enrolled

SB 275 requires state and provider stockpiles of personal protective equipment (PPE). Specific provisions in the bill include:

- Requires the California Department of Public Health (CDPH) and the Office of Emergency Services (OES) to establish a stockpile of PPE for health care workers and essential workers in the state, upon an appropriation.
- Requires a health care facility, skilled nursing facility, medical practice that is part of an integrated facility or health practice, and dialysis center to maintain an inventory of unexpired, unused PPE on January 1, 2023, or 365 days after regulations setting health care employer inventory levels are adopted, an amount sufficient for 45 days of surge consumption. Requires these facilities to provide a list of their PPE inventory upon request from the Division of Occupational Safety and Health.
- Provides for exemptions to the PPE requirements for health care entities under specified circumstances, including issues beyond their control, such as unfulfilled shipments, damaged or stolen equipment.

SB 758 (Portantino) – Died

SB 758 by Senator Portantino would have extended the 2030 seismic deadline to 2032. The author elected not to move the bill off the Assembly floor at the end of session after Assembly Appropriations Committee amendments reduced the deadline from 2037 to 2032.

AB 890 (Wood) – Enrolled

AB 890 expands access to care by authorizing nurse practitioners to practice to the full extent of their training without physician supervision, under specified guidelines. AB 890 passed off of both the Senate and Assembly floors with bipartisan support. AB 890 now moves to the Governor's desk for his consideration.

SB 977 (Monning) – Died

SB 977 would have given the Attorney General (AG) greater oversight of health care acquisitions, mergers and other transactions between hospitals and health care providers. County hospitals were included in the AG's oversight. The bill was amended the last week of session to remove concerns from the dentists and optometrists. Santa Clara County, hospitals, the California Medical Association, surgery centers, counties and a coalition of others remained opposed. The bill was never taken up for a vote on the Assembly Floor due to the significant opposition.

SB 1237 (Dodd) – Enrolled

Senator Dodd's SB 1237 removes the requirement for a certified nurse midwife (CNM) to practice midwifery according to standardized procedures or protocols with a physician; revises the provisions defining the practice of midwifery; authorizes a CNM to attend cases out of a hospital setting; and authorizes a CNM to furnish or order drugs or devices in accordance with standardized protocols with a physician.

SB 852 (Pan) — Enrolled

SB 852 requires the California Health and Human Services Agency to enter into partnerships to increase competition, lower prices, and address shortages in the market for generic prescription drugs; to reduce the cost of prescription drugs for public and private purchasers, taxpayers, and consumers; and to increase patient access to affordable drugs. Late amendments deleted the Office of Drug Contracting and Manufacturing in favor of placing the responsibility with the HHS Agency. The January 2020 budget release teased the idea of a state prescription drug manufacturing program. However, details on that proposal were never developed, likely due to the pandemic.

Behavioral Health**AB 1976 (Eggman) — Enrolled**

AB 1976 makes several changes to Assisted Outpatient Treatment (AOT), or Laura’s Law. The bill would change the way counties opt into AOT. Under existing law, counties can opt to provide AOT. Under the bill counties would be required to implement AOT or to opt out via a resolution passed by the Board of Supervisors by July 1, 2021. The bill also would allow a county, in combination with one or more counties, to implement an AOT program. The bill repeals the January 1, 2022 sunset date of Laura’s Law. CSAC and the County Behavioral Health Directors (CBHDA) are opposing the bill.

AB 2265 (Quirk-Silva) — Enrolled

AB 2265 authorizes expenditure of Mental Health Services Act (MHSA) funds to be used to treat a person with co-occurring mental health and substance use disorders when the person would be eligible for treatment of a mental health disorder under MHSA.

AB 2360 (Maienschein) — Enrolled

This bill requires health plans and health insurers, by January 1, 2021, to establish a telehealth consultation program for maternal and child mental health.

AB 3242 Irwin — Enrolled

AB 3242 authorizes an examination, assessment, or evaluation that relates to the involuntary commitment and treatment of individuals under the Lanterman-Petris-Short (LPS) Act, to be conducted using telehealth.

SB 803 (Beall) — Enrolled

SB 803 seeks to secure behavioral health peer support specialist certification under Medi-Cal. Late amendments require the Department of Health Care Services (DHCS) to seek any federal waivers it deems necessary to establish a Medi-Cal demonstration or pilot project for the provision of peer support services in counties that agree to participate and provide the nonfederal share of funding for a demonstration or pilot that include a certified peer support specialist as a Medi-Cal provider type.

SB 855 (Wiener) – Enrolled

Senator Scott Wiener’s SB 855 revises California’s mental health parity law to cover medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions. The bill also establishes new requirements for medically necessary care determinations and utilization review and bans discretionary clauses in health plan contracts.

Human Services

[AB 1979 \(Friedman\)](#) – Enrolled

AB 1979 by Assembly Member Friedman would ensure that California's Extended Foster Care Program (EFC) has capacity and supports to enable participants to live independently in safe and stable housing. The bill would include a transitional living setting approved by a county within the definition of a supported independent living placement (SILP), allowing counties greater discretion to provide young adults with alternative housing options that meet and health and safety requirements. Counties would be expressly permitted to hold placements in these transitional settings for non-minor dependents who leave for up to 14 days and are expected to return.

[SB 1232 \(Glazer\)](#) – Enrolled

Senator Glazer's SB 1232 would deem CalWORKs applicants and recipients who are full-time students at publicly funded postsecondary institutions to be meeting the weekly work requirements if they are making satisfactory progress towards their education. Additionally, the bill would require that the standard payment of \$175 to \$500 per semester or quarter for textbooks be provided prior to the start of the term.

[SB 1341 \(Hurtado\)](#) – Enrolled

SB 1341 by Senator Hurtado would allow CalWORKs families whose children have been removed and placed into foster care to receive monthly cash assistance for up to 180 days while engaged in active reunification efforts.

Public Safety

[AB 2483 \(Bauer-Kahan\)](#) – Enrolled

AB 2483 requires sheriffs to compile and send data to the Board of State and Community Corrections (BSCC) on their individual county's anti-recidivism programs and success rates in reducing recidivism.

[AB 2617 \(Gabriel\)](#) – Enrolled

AB 2617 would make additional refinements to the laws governing gun violence restraining orders (GVRO).

[AB 3364 \(Assembly Judiciary Committee\)](#) – Signed (Chapter 36, Statutes of 2020)

AB 3364, the omnibus Assembly Judiciary Committee bill, was amended coming out of Senate Appropriations Committee to extend the implementation timeframe for bail reform pursuant to [SB 10](#) (Hertzberg, 2018) to October 1, 2021 should the voters enact Proposition 25 in November. Given that the measure is non-urgency, its effective date is January 1, 2021, creating a likely gap – if Prop 25 is approved by voters – between the certification of election results and the application of the time extension. The Governor signed the measure into law on Monday, the same day it arrived on his desk for action.

[SB 369 \(Hertzberg\)](#) – Enrolled

SB 369 establishes the California Reentry Commission charged with developing reentry solutions and approaches for those returning home from custody, reviewing the barriers to reentry, and coordinating with other entities to establish a grant program for reentry service providers.

[SB 1111 \(Durazo\)](#) – Provisions folded into SB 823

SB 1111 sought to require that any person whose case originated in juvenile court remain in a county juvenile facility until the person turns 21 years of age, except as specified. These provisions were incorporated into SB 823, the budget trailer bill that carries out the DJJ realignment.

[SB 1290 \(Durazo\)](#) - Enrolled

In furtherance of the elimination of specified juvenile-court related administrative fees enacted in [SB 190](#) (Mitchell, 2017), SB 1290 vacates any debt and prohibits associated collection activities for any such fees imposed prior to January 1, 2018.

Policing Reform

In the wake of the death of George Floyd this spring, the Legislature introduced an array of proposals to enact additional policing reforms. Of those that were still alive at the end of session, we detail the final outcomes below.

[AB 66 \(Gonzalez\)](#) – Died

AB 66 would have prohibited the use of specified less-lethal weapons by law enforcement.

[AB 846 \(Burke\)](#) – Enrolled

AB 846 requires that prospective officers' evaluations for mental fitness include bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

[AB 1185 \(McCarty\)](#) – Enrolled

AB 1185 authorizes a county board of supervisors to create a sheriff oversight board and an inspector general's office and confers to those entities subpoena powers, as specified.

[AB 1196 \(Gipson\)](#) – Enrolled

AB 1196 prohibits law enforcement agencies from using a carotid restraint hold or a choke hold, as defined.

[AB 1299 \(Salas\)](#) – Enrolled

AB 1299 establishes new notification requirements to the Commission on Peace Officers Standards and Training within 10 days following the termination or separation of a peace officer under specified circumstances.

[AB 1506 \(McCarty\)](#) – Enrolled

AB 1506 establishes beginning July 1, 2023 the Police Practices Division within the Department of Justice that shall investigate any officer-involved shooting that resulted in the death of an unarmed civilian, as specified, and may, at the request of a law enforcement agency, review the use-of-force policy of the agency and make recommendations.

[AB 2054 \(Kamlager\)](#) – Enrolled

AB 2054 establishes, subject to an appropriation, the Community Response Initiative to Strengthen Emergency Systems Act or the C.R.I.S.E.S. Act in the Office of Emergency Services for purposes of establish a misdemeanor or infraction if a person knowingly uses the 911 emergency system for the purpose of supporting community organizations' participation in emergency response for specified vulnerable populations.

SB 480 (Archuleta) – Enrolled

SB 480 prohibits law enforcement officers from wearing uniforms substantially similar to a uniform of the United States Armed Forces or state active militia.

SB 629 (McGuire) – Enrolled

SB 629 allows authorized members of the press to enter areas that have been closed by law enforcement due to a demonstration, march, protest, or rally and prohibits officers from citing members of the press for failure to disperse, a violation of a curfew, or a violation of resisting, delaying, or obstructing, as specified.

SB 731 (Bradford) – Died

SB 731 would have expanded liability under the Tom Bane Civil Rights Act.

SB 776 (Skinner) – Died

SB 776 would have expanded the circumstances under which peace officer personnel records were eligible for disclosure under the Public Records Act.

SB 1065 (Skinner) – Enrolled

Although this measure was the subject of controversy regarding whether a final vote was taken timely prior to the stroke of midnight, SB 1065 ultimately was moved to the Governor's desk for his consideration. It, among other provisions, prohibits the use of uncorroborated information from in-custody confidential informants by the California Department of Corrections and Rehabilitation (CDCR) when making decisions and findings related to rules violations.

SB 1220 (Umberg) – Enrolled

SB 1220 requires prosecuting agencies to maintain a Brady list and any law enforcement agency to, annually and upon request, provide a prosecuting agency with a list of names and badge numbers of officers employed in the five years prior that meet specified criteria, including having a sustained finding for conduct of moral turpitude or group bias. It also establishes a due process procedure for the officer to contest their inclusion on the list.

Housing**AB 434 (Daly) – Enrolled**

AB 434 would align six specified housing programs administered by the Department of Housing and Community Development (HCD) with its primary rental housing program, the Multifamily Housing Program, and provide for a single application and scoring system in order to make coordinated funding awards under all seven programs. Counties, cities, and planning advocates support the measure as by aligning procedures of the financing programs, AB 434 will help stretch limited state housing funding as far as possible and create additional homes for lower-income Californians. The Assembly concurred in Senate amendments on the last night of the legislative session sending the bill to the Governor for his consideration.

AB 725 (Wicks) – Enrolled

AB 725 requires a metropolitan jurisdiction to allocate at least 25% of its share of the regional housing need for moderate-and above moderate-income housing to sites with zoning that allow at least 4 units of housing in the housing element's inventory of land suitable for residential development. The measure is pending action by

the Governor after the Assembly concurred in Senate amendments prior to the close of the last night of session.

AB 1436 (Chiu) – Died

AB 1436 was one of a few placeholder bills pending before the Legislature as a vehicle for COVID-19 related temporary eviction relief. Ultimately, the Legislature and Administration amended their deal into another vehicle carried by Assembly Member David Chiu – AB 3088 – which is outlined in greater detail below.

AB 2345 (Gonzalez) – Enrolled

AB 2345 would make numerous changes to the Density Bonus Law to incentivize increased production of very low-and low-income units. Local government advocacy groups including UCC and CSAC went neutral on the measure after amendments were taken to retain a maximum of up to four incentives and concessions under density bonus law for 100% affordable projects and to provide a clear exemption for local governments with an ordinance and/or housing program that allows for density bonuses that exceed those required by the current state law effective through December 31, 2020. The Legislature sent AB 2345 to the Governor and is pending action on his desk.

AB 2405 (Burke) – Enrolled

AB 2405 would, beginning on January 1, 2026 and upon appropriation of funds in the annual Budget Act, make it a state policy that every individual in the state has a right to safe, decent, and affordable housing, and among other things, would require all relevant state agencies and departments, as well as local jurisdictions, to revise existing programs and services to identify individuals experiencing homelessness or housing instability and connect them with housing resources. The Assembly concurred in Senate amendments on the last night of the legislative session sending the bill to the Governor for his consideration.

AB 2746 (Gabriel) – Enrolled

AB 2746 would require Whole Person Care pilot programs and entities that receive funding for CalWORKs Homeless Assistance or Housing and Disability Income Advocacy Program to submit annual reports to Department of Health Care Services and Department of Social Services, respectively. UCC, CSAC, and other county and health advocates removed opposition to AB 2746 in July after amendments were taken to allow recipients to indicate on an annual report if certain data and information is infeasible to collect and report and also allow recipients to meet the requirements of AB 2746 with existing reporting so long as it requires the same or substantially similar information and data. The Legislature sent AB 2746 to the Governor for action.

AB 3088 (Chiu) – Signed (Chapter No. 37, Statutes of 2020)

AB 3088 will mitigate the impacts on renters and landlords from the economic fallout caused by the ongoing COVID-19 public health crisis. AB 3088 does not forgive any payment obligations that a tenant has under a lease; rather, depending on the circumstances, some or all of any unpaid amount essentially turns into consumer debt. However, the unpaid amount cannot serve as a basis for throwing the tenant out of the home. AB 3088 provides a pathway for tenants enduring financial hardship due to the COVID-19 pandemic. The Governor signed AB 3088 within hours of the Legislature sending it to him for action.

Transportation

SB 1351 (Beall) – Enrolled

SB 1351 would authorize the state to issue revenue bonds to fund capital improvements needed to preserve and protect the state highway system. The measure would use the state's share of transportation improvement fee revenues authorized by SB 1 – the Road Repair and Accountability Act of 2017 – to repaid the bond debt service. The measure is on the Governor's desk awaiting his action.

Employee Relations

SB 1159 (Hill) – Enrolled

SB 1159 is an urgency measure that codifies the Governor's Executive Order creating a rebuttable presumption that "essential employees" who contracted COVID-19 were infected on the job and therefore eligible for workers' compensation. "Essential employees" include peace officers, firefighters, some health care workers (including In-Home Supportive Services (IHSS) workers), and other frontline employees. SB 1159 also provides a rebuttable presumption for employees whose place of employment has experienced an outbreak; an "outbreak" is defined as follows: for employers of 5-100 employees, 5 or more employees have tested positive within a 14-day period; for employers with more than 100 employees, 5 percent of employees have tested positive within a 14-day period. These presumptions sunset on January 1, 2023. Stakeholders anticipate that the Governor will sign SB 1159.

SB 1383 (Jackson) – Enrolled

SB 1383 expands the scope of the California Family Rights Act (CFRA) to prohibit employers with five or more employees to refuse to grant an employee request to take up to 12 weeks of unpaid leave for family care and medical leave. Such leave includes caring for a grandparent, grandchild, sibling, or domestic partner who has a serious health condition and leave because of a family member's active military duty. SB 1863 also expands the scope of Pregnancy Disability Leave to require employers with five or more employees to allow an employee to take leave, to maintain and pay for the employee's health plan, and to provide reasonable accommodations. SB 1383 was approved by the Senate and Assembly and sent to the Governor. Again, stakeholders anticipate that the Governor signs this measure.

AB 196 (Gonzalez) – Died

AB 196 would have created a rebuttable conclusive presumption for all employees deemed essential that COVID-19 is an industrial injury and therefore eligible for workers' compensation. AB 196 died on the Senate Floor.

AB 664 (Cooper) – Died

AB 664 would have provided a rebuttable presumption for firefighters, peace officers, correctional and law enforcement personnel, and certain health care employees that provide direct patient care at an acute care hospital, and certain employees at the Office of Emergency Services that a diagnosis of COVID-19 is a workplace injury and therefore eligible for workers' compensation. AB 664 also included a requirement for employers to provide emergency equipment or personal protective equipment (PPE). AB 664 died on the Senate Floor.

Attorney General Authority

AB 6 (Reyes) – Died

AB 6 would have, among other things, authorized the Attorney General to facilitate a statewide settlement agreement with opioid manufacturers and encourage settlement agreements for those local governments that

have been in litigation with opioid manufacturers for several years. While the bill was heard in Senate Budget and Fiscal Review Committee over the weekend, AB 6 was never voted on and failed passage.

Newsom Announcements

On Thursday, Governor Newsom signed an emergency [proclamation](#) to free up additional energy capacity amid extreme temperatures across the state. The proclamation also permits power plants to generate more power by suspending certain permitting requirements with the intention of alleviating the heat-induced demands on the state's energy grid. The proclamation also includes the use of generators and auxiliary ship engines.

Also on Thursday, Governor Newsom signed Executive Order [N-78-20](#), extending consumer protections against price gouging through March 4, 2021.

Earlier in the week, Governor Newsom [announced](#) the *Housing Is Key* campaign aimed at connecting renters and landlords experiencing economic hardship due to COVID-19 with helpful information and resources. The campaign will be run by the Business, Consumer Services and Housing Agency (BCSH) and kicks off with a new website and social media ads targeting vulnerable communities. Tenants and landlords can learn more about the new Tenant, Homeowner and Small Landlord Relief and Stabilization Act of 2020 by visiting www.covid19.ca.gov or going directly to www.HousingIsKey.com. BCSH will also launch a mobile and web-based app, available on the website, to help landlords and tenants. It will include a personalized, downloadable report that explains what protections or obligations apply under the new law by answering a few questions.

Homeless Coordinating and Financing Council (HCFC) News

The Homeless Coordinating and Financing Council (HCFC) announced that [allocations](#) for Round 2 of the Homeless Housing Assistance and Prevention Program (HHAP) are available. Recall that Round 2 includes \$300 million grant to support local jurisdictions in their efforts to continue to build on regional collaboration developed through previous rounds of HCFC funding and to develop a unified regional response to homelessness.

Also, on Tuesday, September 15, HCFC will convene a council meeting from 3:00 p.m. to 5:00 p.m. to discuss the single [agenda](#) item: the development of a Council action plan to address homelessness. Those interested may participate via video or teleconference. For a rundown of HCFC activities, please see this [letter](#) from the BCSH Secretary Lourdes Castro Ramirez to the Council.

CARES Act CDBG Application Deadline Extended

Due to recent wildfires, the California Department of Housing and Community Development (HCD) [announced](#) that it has amended the Notice of Funding Availability (NOFA) for the Community Development Block Grant Coronavirus Response Round 1. The amendment extends the application deadline from August 31, 2020 to **September 21, 2020**. Funding for this NOFA is made available pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act and is available on an allocation basis for eligible non-entitlement jurisdictions.

Opportunity to Join Health Care and Homelessness Learning Community

To assist in meeting the health care needs of individuals experiencing homelessness, the Center for Health Care Strategies, with support from the California Health Care Foundation, is launching the California [Health Care and Homelessness Learning Community](#). This peer network will bring together stakeholders from across California

to learn from each other and from experts around the nation about best and emerging practices to improve health services for this population.

Organizations providing health care services to people experiencing homelessness (provider organizations, community-based organizations, health care systems, county agencies, etc.) or those that financially or programmatically support this work (managed care plans, association or membership groups, etc.) are encouraged to apply. Participants will be chosen through a competitive selection process with applications due September 25, 2020. An informational webinar is scheduled for September 11, 2020 from 10:00 a.m. to 11:00 a.m. Click [here](#) to learn more and register.



To: CHEAC General Membership

From: [Michelle Gibbons](#), Executive Director
[Betsy Armstrong](#), Senior Policy Analyst
[Jack Anderson](#), Policy Analyst

Date: September 1, 2020

RE: 2020 End of Session Memo

Moments ago, the Legislature concluded the 2019-20 Legislative Session. This year, legislators introduced 3,031 bills, including 952 and 2,079 bills introduced by the Senate and Assembly, respectively. However, the Legislature was forced to adjust to truncated timelines and new ways of conducting business.

At the start of this week, over 680 bills awaited legislative action. To add to an already challenging year, the Senate's work was halted last Wednesday due to a member of the Senate testing positive for the coronavirus and all but one member of the Senate Republican caucus being exposed. To complete their business, the Senate resumed their work the following day with Senate Republican members voting remotely.

Tensions surfaced as the Legislature worked to meet the constitutional deadline to pass bills by midnight. Following the midnight deadline, only bills calling elections, providing for tax levies or appropriations for usual current expenses of the state, urgency measures, and bills passed after being vetoed by the Governor are eligible to be passed. As the Senate made a final push to pass a bill ([SB 1064](#)) before midnight, the Senate began a roll call vote just before midnight. Because the vote was not completed by midnight, Senate Republican Leader Grove challenged the validity of the vote on the bill, halting any further activity for nearly 40 minutes.

Over the final days of session, the Legislature acted on several highly debated and headline-worthy bills including:

Attorney General Opioid Settlement Authority ([AB 6](#)). Late last week, Assembly Member Eloise Reyes amended AB 6 to allow the attorney General to facilitate a statewide opioid settlement agreement with opioid manufacturers. The bill encourages government entities that filed lawsuits before August 24, 2020, to join such settlement. In addition, the bill allows the Attorney General to release lawsuits from government entities filed after August 24, 2020. The bill would require funding provided by the settlement to be deposited into the General Fund for future appropriation by the Legislature. The measure did not come before the full Senate or Assembly for a vote.

Eviction Moratorium ([AB 3088](#)). Last Friday, Governor Newsom announced that he and legislative leaders had reached a deal to provide protections to tenants experiencing economic hardship because of the COVID-19 pandemic. As a result, yesterday the legislature passed AB 3088. The measure protects tenants attesting to financial hardships due to COVID-19 between March and August 31, 2020 from being evicted for unpaid rent. Between September 1, 2020 and January 31, 2021 renters are required to pay at least 25

percent of the rent of the total rent due for those months on or by January 31, 2021. Landlords would be able to pursue lost rent starting March 1, 2021 in small claims court.

Shortly before midnight, Governor Newsom [announced](#) that he had signed AB 3088 into law.

Flavored Tobacco (SB 793 - Chapter 34, Statutes of 2020). SB 793 by Senator Jerry Hill prohibits tobacco retailers from selling or offering for sale any flavored tobacco product, including mint and menthol. After extensive negotiations, the measure exempts hookah retailers selling flavored shisha tobacco products, sales of premium cigars sold in cigar lounges, loose leaf tobacco, and certain premium cigars. SB 793 specifies that the provisions do not preempt or prohibit local ordinances barring the sale of flavored tobacco products; however, if inconsistency exists between state and local measures, the greater restriction on tobacco access shall prevail.

SB 793 was sponsored by a coalition of individuals and organizations, including Lieutenant Governor Eleni Kounalakis and over 60 lawmakers, Campaign for Tobacco Free Kids, American Lung Association, American Heart Association, American Cancer Society Cancer Action Network, and Common Sense. CHEAC was a proud participant in the coalition and maintained strong support of the measure as it made its way through the legislative process. SB 793 received final legislative approval on Friday morning and was quickly signed into law by Governor Newsom on Friday afternoon.

Yesterday afternoon, a referendum of SB 793 was filed. Even if the referendum were to qualify for the 2022 ballot, SB 793 would be suspended until voters take action.

Realignment Backfill (SB 115). The legislature passed SB 115 amending the 2020 Budget Act, which provides further details to the Realignment backfill agreement between counties and the Administration. Please see this brief [write-up](#) for details.

Additional actions taken on bills of interest to CHEAC Members are highlighted below, organized by platform area. A comprehensive list of CHEAC bills, including their final legislative status, is [available here](#).

COVID-19. Members of the Legislature introduced several measures to address various aspects of the coronavirus pandemic, including employer requirements, contact tracing, data collection, and personal protective equipment. Below are the measures of note and their status.

[AB 660 \(Levine\)](#) – WATCH

Held on Suspense

AB 660 by Assembly Member Marc Levine would have specified that data collected for contact tracing purposes could not be used, maintained, or disclosed for any other purpose other than for facilitating contact tracing efforts. The measure would have additionally prohibited law enforcement officials from participating in contact tracing activities. AB 660 was sponsored by the ACLU and was opposed by the Rural County Representatives of California (RCRC) and the California State Sheriffs' Association. The measure was held on the Senate Appropriations Committee Suspense File.

AB 685 (Reyes) – WATCH WITH CONCERNS*To Governor*

AB 685 by Assembly Member Eloise Gómez Reyes would establish various requirements on employers when a COVID-19 exposure occurs within the workplace. Specifically, the measure would require all private and public employers, when notified of a potential COVID-19 exposure, to provide written notice to all employees when they may have been exposed to the virus. Employers would be additionally required to notify appropriate local public health authorities of the names and number of employees, occupation, and worksite who meet the definition of a qualifying individual including a laboratory-confirmed case of COVID-19, positive diagnosis by a licensed healthcare provider, a public health official order to isolate, or a death caused by COVID-19 as determined by a local health department. CHEAC is in a watch with concerns position, and the California State Association of Counties (CSAC) is opposed to the measure. The measure was passed by the Legislature and heads to Governor Gavin Newsom.

AB 1710 (Wood) – SUPPORT*To Governor*

Assembly Member Jim Wood's AB 1710 would allow pharmacists to administer any vaccine approved by U.S. Food and Drug Administration (FDA), so as long as they have completed an immunization training program, be certified in basic life support, and comply with all state and federal recordkeeping and reporting requirements. AB 1710 is intended to enable pharmacists to administer a COVID-19 vaccine once widely available. The measure is now with Governor Gavin Newsom.

AB 1782 (Chau) – WATCH*Held on Suspense*

Similar to AB 660 (Levine) above, AB 1782 by Assembly Member Ed Chau would have set forth requirements for businesses or public health entities offering technology-assisted contact tracing (TACT) services related to data collection, use, maintenance, and disclosure. The measure would have additionally prohibited businesses and public health entities offering TACT services from collecting, using, maintaining, or disclosing data without affirmative consent of the individual to whom the data pertains. Public health entities participating in TACT services would have also been required to purge personal information within 60 days of collection and require any report of exposure to be verified by a healthcare professional or public health entity before notifying individuals who may have been exposed. AB 1782 was introduced amid expanded contact tracing efforts statewide amid the ongoing COVID-19 pandemic, but the measure was held on the Senate Appropriations Committee Suspense File.

AB 2644 (Wood) – WATCH*To Governor*

Assembly Member Jim Wood's AB 2644 would require skilled nursing facilities (SNFs), during a declared emergency due to a communicable disease, to report each disease-related death to the California Department of Public Health (CDPH). CDPH would be required to make available on their website the total number of disease-related deaths in SNFs on a weekly basis. The measure was approved by the Legislature and awaits the signature or veto of Governor Newsom.

SB 275 (Pan) – WATCH*To Governor*

SB 275 by Senator Richard Pan would require the California Department of Public Health (CDPH) to establish a personal protective equipment (PPE) stockpile to ensure an adequate supply of

PPE for health care workers and essential workers. The measure establishes a Personal Protective Equipment Advisory Committee (PPE Advisory Committee) with representatives from hospitals, clinics, counties, and labor unions, among others, and would require certain health care employers to maintain a PPE stockpile based on certain surge consumption thresholds during a pandemic or other health emergency. SB 275 was ultimately approved by the Legislature and heads to Governor Newsom for action.

SB 932 (Wiener) – WATCH

To Governor

Senator Scott Wiener's SB 932 would require any electronic tool utilized by local health officers to report communicable disease information to the California Department of Public Health (CDPH) to include the capacity to collect sexual orientation and gender identity data from individuals diagnosed with any reportable communicable disease. Health care providers would be required to report a patient's sexual orientation and gender identity, if known, to local health officers when reporting any reportable communicable disease. Recall, Senator Scott Wiener, and advocates raised concerns around the lack of data on sexual orientation and gender identity relative to COVID-19 cases. CDPH earlier this summer [issued emergency regulations](#) requiring health care providers to collect data on patient race, ethnicity, gender identity, and sexual orientation for any reportable communicable disease condition. SB 932 was passed by the Legislature and heads to the desk of Governor Newsom.

Access to Health Services

AB 2164 (R. Rivas) – SUPPORT

To Governor

Assembly Member Robert Rivas' AB 2164 specifies that a federally qualified health center (FQHC) or rural health center (RHC) "visit" includes an encounter between a provider or patient using telehealth in synchronous interaction or asynchronous store-and-forward. The measure additionally specifies billing requirements for FQHC/RHC telehealth services including that nonbillable clinical staff are present and that the patient is at an originating clinic site. The measure was amended on the Senate Appropriations Committee Suspense File to make the bill's provisions inoperative 180 days after the termination of the COVID-19 state of emergency. The measure heads to the desk of Governor Gavin Newsom.

Communicable Disease Control

AB 2077 (Ting) – SUPPORT

To Governor

AB 2077 by Assembly Member Phil Ting would repeal the Disease Prevention Demonstration Project that allows pharmacies to furnish or sell hypodermic needles or syringes without a prescription in counties or cities that authorize such programs. The measure additionally would repeal existing state statute that requires a prescription for the sale of hypodermic needles or syringes and would extend the sunset date until January 2026. The bill requires pharmacies that furnish nonprescription syringes to provide written information or verbal counseling upon the sale on how to access drug treatment, access testing and treatment for HIV and hepatitis C, and how to safely dispose of sharps. The measure was co-sponsored by the Drug Policy Alliance, the San Francisco AIDS Foundation, and the Health Officers Association of California (HOAC). The measure was passed by the Legislature and now heads to Governor Newsom's desk.

Emergency Medical Services (EMS)

[AB 1544 \(Gipson\)](#) – NEUTRAL

To Governor

AB 1544, authored by Assembly Member Mike Gipson, would allow counties to establish community paramedicine and triage to alternate transport programs, and was revived on the Senate Floor last week with amendments. The most substantive amendments split apart the governance of the community paramedicine aspects of the measure and the triage to alternate destination components. Of note, the bill requires local emergency medical services agencies (LEMSAs) to provide a first right of refusal to any public agency transport provider when establishing a community paramedicine program. If a LEMSA elects to establish a triage to alternate destination program, they must include all ALS providers that operate within the program jurisdiction. The measure allows for an ALS provider to opt out of the program and includes ability for public agencies to contract with private providers and the ability for private providers to enter into agreements with public agencies to provide these services. AB 1544 was passed by the Legislature and now heads to the Governor.

Environmental Health

[AB 2276 \(Reyes\)](#) – WATCH

To Governor

AB 2276 by Assembly Member Eloise Gómez Reyes would require a contract between the Department of Health Care Services (DHCS) and Medi-Cal managed care plans to compel health plans on a quarterly basis to identify every child without a record of a blood lead screening test and remind contracting network providers and parents/guardians of tests and risks of childhood lead poisoning. AB 2276 would additionally require health plans to report to DHCS on an annual basis the number of children who have not received a blood lead test. The California Department of Public Health (CDPH) would be required to update its Childhood Lead Poisoning Prevention Program (CLPPP) funding allocation before each contract cycle, and several lead exposure risk factors, including a child's residency in or visit to a foreign country, would be added to CDPH standard of care regulations. AB 2276 follows a [State Auditor report](#) earlier this year finding millions of children in Medi-Cal have not received required testing for lead poisoning, among other notable findings. AB 2276 was passed by the Legislature and is with Governor Newsom.

[AB 3336 \(Carrillo\)](#) – WATCH

To Governor

Assembly Member Wendy Carrillo's AB 3336 would require ready-to-eat food delivered through a food delivery platform to be transported in a manner to ensure food is protected from contamination. The measure would require bags and containers used in transporting food to be tamper-evident prior to the food handler taking possession of the food items at the food facility. The measure would further specify that enforcement officers may recover from a third-party food delivery platform reasonable costs associated with enforcing requirements against food handlers. The measure was sponsored by the California Association of Environmental Health Administrators (CAEHA) and is headed to the desk of Governor Newsom.

Health Coverage/Health Care Reform

AB 2100 (Wood) – WATCH

To Governor

AB 2100 by Assembly Member Jim Wood would require the Department of Health Care Services (DHCS), to establish the Independent Prescription Drug Medical Review System for the outpatient pharmacy benefit. The measure would modify existing Medi-Cal pharmacy benefit statute provisions to ensure DHCS' cost reimbursement methodology for specialty drugs is sufficient to provide access to covered drugs. Last, the measure would disallow DHCS from recouping drug benefit overpayments made from April 2017 to February 2019. AB 2100 was approved by the Legislature and heads to Governor Newsom.

SB 406 (Pan) – SUPPORT

To Governor

Senator Richard Pan's SB 406 is the Senate's health care omnibus measure and includes a handful of health-related items. Notably, the measure would codify in California statute the Affordable Care Act (ACA) requirements that health insurance policies cover preventive services and the ACA prohibition on lifetime or annual limits on health insurance policies. The measure would require the Department of Health Care Services (DHCS) to take action against an unlicensed recovery residence when that residence has an undisclosed contractual relationship, financial interest, or ownership stake with a licensed alcohol or other drug treatment recovery services facility. SB 406 would further remove statutory sunset provisions allowing local registrars to accept an electronic acknowledgement, sworn under penalty of perjury, that the requester of a marriage, birth, or death certificate is an authorized person. SB 406 heads to Governor Newsom for action.

SB 852 (Pan) – WATCH

To Governor

SB 852 by Senator Richard Pan would require the California Health and Human Services (CHHS) Agency to enter partnerships to produce or distribute generic prescription drugs and make the generic prescription drugs widely available to public and private purchasers in California. The measure was significantly narrowed through the Assembly Appropriations Committee Suspense File Process. The measure won approval among the Legislature and awaits action by Governor Newsom.

Injury Prevention

AB 2112 (Ramos) – SUPPORT

To Governor

AB 2112 by Assembly Member James Ramos would authorize the California Department of Public Health (CDPH) to establish the Office of Suicide Prevention and would task the Office with various activities, including providing information and technical assistance to statewide and regional partners on suicide prevention best practices, conducting state-level evaluation of suicide prevention policies and practices, monitoring and disseminating data to inform suicide prevention efforts at state and local levels, and convening experts and stakeholders. The measure would only become operative upon an appropriation. AB 2112 heads to Governor Newsom for action.

Jail and Community Corrections Services

AB 732 (Bonta) – WATCH

To Governor

Assembly Member Rob Bonta's AB 732 would set forth a series of requirements for state prisons and county jails to provide services, accommodations, and supplies to possibly pregnant inmates or inmates capable of becoming pregnant. Requirements would include voluntary pregnancy testing, counseling, scheduling pregnant inmates for regular prenatal care visits, access to specified pregnancy-related products, offering specified inmates medication-assisted treatment (MAT), referral to a medical social worker, transportation to a hospital for birth, care, evaluation, and treatment of existing and newly diagnosed chronic and infectious diseases, and postpartum examinations within one week of childbirth and as needed for up to 12 weeks. The measure would additionally prohibit conditions or restrictions on inmate access to abortion services. AB 732 was approved by the Legislature and awaits action by Governor Newsom.

Public Health Emergency Preparedness

AB 3267 (Smith) – WATCH

To Governor

AB 3267 by Assembly Member Christy Smith would require the Office of Emergency Services (OES) to work directly with representatives from the access and functional needs population, including social services agencies, nonprofits, and transportation providers, when updating the State Emergency Plan. AB 3267 was approved by the Legislature and heads to the desk of Governor Newsom.

Public Health Workforce

AB 3224 (Rodriguez) – SUPPORT

Held on Suspense

AB 3224 by Assembly Member Freddie Rodriguez was sponsored by CHEAC, the Health Officers Association of California (HOAC), and SEIU California. The measure would have required the California Department of Public Health (CDPH) to contract with an entity to conduct an evaluation of the adequacy of the local health department (LHD) infrastructure and make recommendations for future staffing, workforce needs, and resources to accurately and adequately fund local public health activities. CDPH would have additionally been required to convene an advisory group to oversee the process of selecting an evaluation entity and to provide oversight and technical assistance to the entity. AB 3224 was held on the Senate Appropriations Committee Suspense File.

Budget Bills. The Legislature acted on several budget trailer bills as highlighted in the chart below.

Additional 2020-21 Budget Trailer Bills of Interest	
Budget Bill Jr. (August Budget Bill Amendments)	SB 115
General Government August Cleanup	AB 107
Education Finance August Cleanup	SB 820
Worker Leave	AB 1867
Juvenile Justice Realignment	SB 823
Criminal Justice Administrative Fees	AB 1869
Cannabis	AB 1872
CalEITC: ITINs	AB 1876
Homestead Exemption	AB 1885

Next Steps

Governor Newsom has until September 30 to sign or veto bills passed by the Legislature on or before September 1. CHEAC will issue a final bill chart following the September 30 deadline.

Questions

For questions on the items highlighted above or other legislative-related inquiries, please feel free to contact your CHEAC staff via email.