



Contra
Costa
County

To: Board of Supervisors

From: LEGISLATION COMMITTEE

Date: May 24, 2022

Subject: SB 300 (Cortese): Crimes: Murder: Punishment

RECOMMENDATION(S):

CONSIDER an advocacy position on SB 300 (Cortese) Crimes: Murder: Punishment, a bill that repeals the provision of law requiring punishment by death or imprisonment for life without the possibility of parole for a person convicted of murder in the first degree who is not the actual killer, but acted with reckless indifference for human life as a major participant in specified dangerous felonies.

FISCAL IMPACT:

According to the Senate Appropriations Committee:

Courts: Unknown, potentially-major one-time costs in the millions of dollars to the courts to adjudicate resentencing petitions. The courts are likely to receive an influx of petitions during the initial years after enactment of this bill, then new filings likely would taper off. While the Superior Courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. (State General Fund*)

Transportation & supervision: Unknown, potentially-significant workload costs in the

☒ APPROVE

☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/24/2022** ☐ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, District III
Supervisor

Karen Mitchoff, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 24, 2022

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: L. DeLaney,
925-655-2057

cc:

thousands of dollars to the Department of Corrections and Rehabilitation (CDCR) to supervise and transport individuals in state custody to attend hearings to vacate first-degree murder convictions and for resentencing. Actual costs would depend on the number of incarcerated persons who file a petition pursuant to this measure and make a prima facie showing that they are entitled to relief and for whom remote/video appearances at the proceedings are not exercised. (General Fund)

FISCAL IMPACT: (CONT'D)

Department of Justice (DOJ): Unknown, potentially-significant workload cost pressures for Deputy Attorneys General (DAGs) to litigate on appeal the applicability of relief pursuant to this measure for individuals whose petitions are denied by the Superior Courts. (State General Fund)

Incarceration savings: Unknown, potentially-major savings annually in reduced state incarceration costs for individuals whom the courts resentence to a shorter term of imprisonment and/or release from state facilities and for those who, absent this measure, would be convicted to first-degree murder prospectively. The FY 2020-2021 per capita cost to detain a person in a state prison is \$112,691 annually, with an annual marginal rate per person of over \$13,000. Actual savings would depend on the number of individuals who are resentenced and who avoid incarceration in state prison because of this measure. Aside from marginal cost savings per individual, however, the department would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing. (State General Fund)

*Trial Court Trust Fund

BACKGROUND:

[SB 300](#)

Author:	Dave Cortese (D-015)
Coauthor	Skinner (D), Bradford (D), Stone (D), Ting (D), Wiener (D), Kamlager (D), Durazo (D)
Title:	Crimes: Murder: Punishment
Fiscal Committee:	yes
Urgency Clause:	yes
Introduced:	02/03/2021
Last Amend:	05/12/2022
Disposition:	Pending
Committee:	Assembly Public Safety Committee
Hearing:	06/01/2022 9:00 am, State Capitol, Room 127
Summary:	Repeals a specified provision requiring punishment by death or imprisonment for life without the possibility of parole for a person convicted of murder in the first degree who is not the actual killer, but acted with reckless indifference for human life as a major participant in certain specified violent felonies.

Status:

- 05/12/2022 From ASSEMBLY Committee on PUBLIC SAFETY with author's amendments.
- 05/12/2022 In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC SAFETY.

Full Status

- 02/03/2021 INTRODUCED.
- 02/10/2021 To SENATE Committee on PUBLIC SAFETY.
- 02/22/2021 In SENATE. Article IV. Section 8(a) of the Constitution dispensed with.
- 02/22/2021 In SENATE. Joint Rule 55 suspended.
- 03/11/2021 From SENATE Committee on PUBLIC SAFETY with author's amendments.
- 03/11/2021 In SENATE. Read second time and amended. Re-referred to Committee on PUBLIC SAFETY.
- 04/06/2021 From SENATE Committee on PUBLIC SAFETY: Do pass to Committee on APPROPRIATIONS. (4-0)
- 04/19/2021 In SENATE Committee on APPROPRIATIONS: To Suspense File.
- 05/20/2021 From SENATE Committee on APPROPRIATIONS: Do pass as amended. (5-2)
- 05/20/2021 In SENATE. Read second time and amended. To second reading.
- 05/24/2021 In SENATE. Read second time. To third reading.
- 06/02/2021 In SENATE. From third reading. To Inactive File.
- 07/07/2021 In SENATE. From Inactive File. To second reading.
- 07/07/2021 In SENATE. Read second time and amended. To second reading.
- 07/08/2021 In SENATE. Read second time. To third reading.
- 07/15/2021 In SENATE. Read third time, urgency clause adopted. Passed SENATE. *****To ASSEMBLY. (27-8)
- 04/28/2022 To ASSEMBLY Committee on PUBLIC SAFETY.
- 05/12/2022 From ASSEMBLY Committee on PUBLIC SAFETY with author's amendments.
- 05/12/2022 In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC SAFETY.

LEGISLATIVE COUNSEL'S DIGEST

SB 300, as amended, Cortese. Crimes: murder: punishment.

(1) Existing law defines murder as the unlawful killing of a human being, or a fetus, with

malice aforethought. Existing law classifies a murder as murder in the first degree if it is willful, deliberate, and premeditated, is committed by specified means including poison, explosive, or torture, or if it is committed in the perpetration of, or attempt to perpetrate specified felonies, including robbery, carjacking, and rape. Existing law holds a person, who is not the actual killer, criminally liable for murder in the first degree if that person either, with intent to kill, aids, abets, counsels, commands, induces, solicits, requests or assists the actual killer in the commission of the murder, or is a major participant in the underlying felony and acts with reckless indifference to human life.

Under existing law, murder in the first degree is punishable by death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. Existing law, added by Proposition 115 of the June 5, 1990, statewide primary election, provides that a person, not the actual killer, who is found guilty of first degree murder, and who, with reckless indifference to human life and as a major participant in certain specified violent felonies, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted in the commission of that felony, shall be punished by death or imprisonment in the state prison without the possibility of parole. Existing law provides for amendment of these provisions by a $2/3$ vote of each house of the Legislature.

This bill would repeal the aforementioned provision requiring punishment by death or imprisonment for life without the possibility of parole for a person convicted of murder in the first degree who is not the actual killer, but acted with reckless indifference for human life as a major participant in certain specified violent felonies.

(2) Existing law provides for various specified special circumstances, including the murder of a peace officer, firefighter, or witness, which, if found true as specified, require a defendant found guilty of murder in the first degree to be sentenced to death or imprisonment for life without the possibility of parole. Existing law, added by Proposition 115 of the June 5, 1990, statewide primary election, prohibits a judge from striking or dismissing any special circumstance which is admitted by plea or found true by a jury or court, as specified. Existing law provides for amendment of these provisions by a $2/3$ vote of each house of the Legislature.

This bill would repeal the provision prohibiting a judge from striking a special circumstance.

This bill would declare that it is to take effect immediately as an urgency statute.

The Senate Floor analysis is Attachment A.

There is no policy in the Board of Supervisors' adopted State Legislative Platform that relates to this bill. Given the timing of the bill's next hearing at Assembly Public Safety Committee on June 1, the Chair of the Board requested that this bill be brought to the full Board of Supervisors for consideration of a position.

None of the County's justice system partners (Sheriff, District Attorney, Public Defender, Chief Probation Officer) has taken a position on the bill as yet. The California Public Defender's Association supports the bill. The California State Sheriffs Association has not yet taken a position; nor has the Chief Probation Officers of California and the California Probation, Parole & Correctional Association. The Prosecutors Alliance has apparently written a letter of support.

CLERK'S ADDENDUM

Speakers: Candace Chavez; Stevern Scheer; Marilyn Parker; Martha Bracy; Taewon Wilson; Caller 6770; No Name Given; Jane Courant; Gigi Crowder; Diana HOnig, Multifaith Action Coalition; Wanda Johnson; Shelly Ji, NAMI.

Took a WATCH position on the legislation.

ATTACHMENTS

SB 300 Senate Floor Analysis