

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1127 (Santiago) – As Amended May 4, 2021

Policy Committee: Public Safety

Vote: 6 - 2

Urgency: No

State Mandated Local Program: Yes

Reimbursable: Yes

SUMMARY:

This bill prohibits a juvenile adjudication from being considered a prior serious or violent felony conviction for purposes of sentence enhancement in accordance with the Three Strikes Law. Specifically, this bill:

- 1) Allows a person convicted of a felony who had their sentence enhanced because of a prior juvenile serious or violent felony conviction to petition the court in order to have the prior juvenile conviction enhancement vacated and be resentenced on the remaining counts.
- 2) Requires the court to review the petition and determine if the petitioner has made a prima facie showing that the petitioner is eligible for relief and requires the court appoint counsel if a prima facie case has been made.
- 3) Requires the court, upon determining that a prima facie case has been made, to issue an order to show cause why relief should not be granted. Requires the prosecutor to file and serve a response within 60 days of service of the petition and allow the petitioner to file and serve a reply within 30 days after the prosecutor response is served.
- 4) Requires, within 60 days after the order to show cause has been issued, that the court hold a hearing to determine whether to vacate and recall the petitioner's sentence and resentence the petitioner on any remaining counts and enhancements, excluding the enhancement imposed as a result of the juvenile adjudication.

FISCAL EFFECT:

Possible cost pressures (Trial Court Trust Fund) in the upper hundreds of thousands of dollars to low millions of dollars annually to the trial courts in increased workload, given this bill requires courts to hear and resolve petitions for resentencing on serious or violent juvenile adjudications. The estimated cost of one court day is approximately \$7,644. It unknown how many petitions may be filed, however, if 100 petitions for resentencing are filed in criminal court requiring 48 total hours (six days) of workload, the cost would be approximately \$764,000.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. This is particularly true, given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a

serious backlog that must be resolved. The Governor's 2021-22 budget proposes \$72.2 million dollars in ongoing GF revenue for trial courts to continue addressing the backlog of cases in order to provide timely access to justice.

COMMENTS:

1) **Purpose.** According to the author:

Current law makes our youth suffer harsher and longer sentences when they are convicted of adult strike offenses instead of rehabilitating. AB 1127 eliminates juvenile strikes so that we create a justice system that emphasizes rehabilitation not incarceration, and that treats all Californians with fairness and dignity, especially people of color.

2) **Juvenile Strikes.** The Three Strikes Law (1994) required a defendant, convicted of any new felony, having suffered one prior serious or violent felony, qualified juvenile adjudication or out-of-state conviction (a "strike"), to be sentenced to state prison for twice the term of imprisonment in the statute. If the defendant was convicted of any felony with two or more prior strikes, the law mandated a state prison term of at least 25 years to life. In 2012, Californians voted to enact Proposition 36, which revised the Three Strikes law so that mandatory 25-to-life sentences would only be imposed upon a conviction for a new "violent" or "serious" felony. In addition, proposition 36 allowed the use of a juvenile adjudication to count as a "strike" only if the juvenile was 16 years of age or older at the time they committed the prior offense, and the offense met other specified requirements. This bill seeks to prevent the use of any juvenile adjudication as a strike, even those that occurred after the defendant's 16th birthday.

3) **Related Legislation.**

- a) AB 124 (Kamlager) expands the availability of vacatur relief and the affirmative defense of coercion for victims of human trafficking and intimate partner and sexual violence. AB 124 is pending in this committee.
- b) AB 624 (Bauer-Kahan) authorizes immediate appellate review of an order transferring a minor from the juvenile court to a court of criminal jurisdiction. AB 624 is pending in this committee.
- c) AB 1245 (Cooley) allows a defendant to petition a court for resentencing to a lower sentence after the defendant has served at least 15 years of their sentence, as specified.
- d) AB 1259 (Chiu) expands eligibility for post-conviction relief based on error damaging a person's ability to meaningfully understand, defend against or knowingly accept the immigration consequences of the conviction, to include convictions resulting after trial. AB 1259 is pending in this committee.
- e) AB 1540 (Ting) requires a court hearing an inmate's motion for recall and resentencing where there is a recommendation from the California Department of Corrections and

Rehabilitation (CDCR), Board of Parole Hearings (BPH), or local law enforcement to appoint counsel for the inmate. AB 1540 is pending in this committee.

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