

Date of Hearing: April 27, 2021
Counsel: Cheryl Anderson

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1509 (Lee) – As Amended April 21, 2021

SUMMARY: Repeals several firearm enhancements, reduces the penalty for using a firearm in the commission of specified crimes from 10 years, 20 years, or 25-years-to-life to one, two or three years, and authorizes recall and resentencing for a person serving a term for these enhancements. Specifically, **this bill:**

- 1) Repeals the sentence enhancement for committing or attempting to commit a street gang crime while carrying a firearm.
- 2) Repeals the sentence enhancement for committing or attempting to commit a felony while armed with a firearm or while using a deadly or dangerous weapon.
- 3) Deletes the sentence enhancement for possessing ammunition that penetrates metal or armor while armed with a firearm in the commission or attempted commission of a felony.
- 4) Repeals the sentence enhancement for furnishing a firearm to another during the commission or attempted commission of a felony.
- 5) Repeals the enhancement for use of a firearm, machinegun, or assault weapon in the commission or attempted commission of a felony.
- 6) Reduces the penalty for the 10-20-life enhancement pertaining to use or discharge of a firearm during specified felony offenses such as robbery, homicide or specified sex offenses, as follows:
 - a) The penalty for use of a firearm during any of the specified offenses is reduced from 10 years to one year;
 - b) The penalty for discharging a firearm during any of the specified felonies is reduced from 20 years to two years; and,
 - c) The penalty for discharging a firearm and proximately causing great bodily injury or death during any of the specified offenses is reduced from 25 years-to-life to three years.
- 7) Reduces the penalty enhancement for the discharge of a firearm from a vehicle causing great bodily injury or death from five, six, or ten years, to one, two, or three years.
- 8) Removes felonies in which the defendant personally used a firearm (as defined in the enhancement(s) being repealed) from the violent felonies list and as a qualifying circumstance under the One-Strike-Sex-Law.

- 9) States that a defendant may submit a petition to have their sentence recalled and request resentencing when one of the following conditions apply:
 - a) The defendant was, on or before January 1, 2022, serving a sentence for one of the specified firearm enhancements, based on the law as it read on or before December 31, 2021; and/or,
 - b) The defendant was, on or before January 1, 2022, serving a sentence for a violent felony, based on the law as it read prior to December 31, 2021.
- 10) Requires the court, upon receiving a petition, to determine whether the petitioner satisfies the criteria for relief. If the petitioner satisfies the criteria, the petitioner's sentence associated with the enhancement shall be stricken or resentenced in accordance with the law as it reads on January 1, 2022, and no additional or substitute term of imprisonment shall be added in its place.
- 11) States that a person who is resentenced shall be given credit for time served and shall be subject to parole for one year following completion of their sentence, unless the court, in its discretion, as part of its resentencing order, releases the person from parole. The person shall be subject to parole supervision by the Department of Corrections and Rehabilitation (CDCR) and the jurisdiction of the court in the county in which the parolee is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke parole and impose a term of custody.
- 12) Provides that resentencing shall result in a lesser sentence, unless the original enhancement was imposed concurrently or stayed. The term associated with an enhancement which was repealed shall be stricken and no additional or substitute term shall be added in its place during resentencing. Resentencing shall not alter any term other than the enhancement.
- 13) States that a person who has completed their sentence for a conviction, whether by trial or plea, of an enhancement which has been repealed may file an application before the trial court that entered the judgment of conviction in their case to have the enhancement conviction or convictions vacated.
- 14) States that if the application satisfies the criteria for eligibility, the court shall vacate the enhancement convictions.
- 15) Provides that a hearing is not necessary to grant or deny an application to vacate a repealed enhancement, unless the applicant requests one.
- 16) Requires the presiding judge to designate another judge to rule on the petition or application, if the court that originally sentenced the petitioner is not available.
- 17) States that this section does not diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.
- 18) States that sentencing pursuant to this section does not diminish or abrogate the finality of judgments in any case that does not come within the purview of this section.

- 19) Provides that a resentencing hearing ordered under this section shall constitute a “post conviction release proceeding” under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy’s Law).
- 20) Provides that person who is committed to a state hospital after being found not guilty by reason of insanity may petition the court to have their maximum term of commitment, as established by law, reduced to the length it would have been under the enhancements as they read on January 1, 2022. In order for the maximum term of commitment to be reduced, the person must have met all of the criteria for a modification of sentence pursuant to this section, had the person been found guilty.
- 21) States that if a petitioner’s maximum term of confinement is ordered reduced under this subdivision, the new term of confinement must provide opportunity to meet requirements to extend the term. If a petitioner’s new maximum term of confinement ordered under this section does not provide sufficient time to meet those requirements, the new maximum term of confinement may be extended, not more than 240 days from the date the petition is granted.
- 22) Makes other technical and conforming changes.

EXISTING LAW:

- 1) Provides that every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment for one, two, or three years in the court’s discretion. Effective January 1, 2022, the court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence. (Pen. Code, § 12021.5, subd. (a).)
- 2) Provides that very person who carries a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for two, three, or four years in the court’s discretion. Effective January 1, 2022, the court shall impose the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentence. (Pen. Code, § 12021.5, subd. (b).)
- 3) States that except as provided, a person who is armed with a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment for one year pursuant to realignment, unless the arming is an element of that offense. This additional term shall apply to a person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm. (Pen. Code, § 12022, subd. (a)(1).)

- 4) States that except as provided, if the firearm is an assault weapon, or a machinegun, or a .50 BMG rifle, the additional and consecutive term described in this subdivision shall be three years imprisonment pursuant to realignment whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon, machinegun, or a .50 BMG rifle, whether or not the person is personally armed with an assault weapon, machinegun, or a .50 BMG rifle. (Pen. Code, § 12022, subd. (a)(2).)
- 5) Provides that a person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense. If the person has been convicted of carjacking or attempted carjacking, the additional term shall be in the state prison for one, two, or three years. (Pen. Code, § 12022, subd. (b)(1) & (2).)
- 6) Provides that notwithstanding the enhancement for being armed while committing or attempting to commit a felony, a person who is personally armed with a firearm in the commission of a violation or attempted violation of specified drug offenses shall be punished by an additional and consecutive term of imprisonment pursuant to realignment for three, four, or five years. (Pen. Code, § 12022, subd. (c).)
- 7) Provides that a person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission or attempted of a specified drug offense, shall be punished by an additional and consecutive term of imprisonment pursuant to realignment for one, two, or three years. (Pen. Code, § 12022, subd. (d).)
- 8) States that for purposes of imposing the aggregated sentence, the enhancements under this section shall count as a single enhancement. (Pen. Code, § 12022, subd. (e).)
- 9) States that notwithstanding any other law and in an unusual case, the court may strike the additional punishment for the enhancements for being armed during or a principal in the commission of specified drug offenses, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition. (Pen. Code, § 12022, subd. (a)(1).)
- 10) Provides that any person who, while armed with a firearm in the commission or attempted commission of any felony, has in their immediate possession ammunition for the firearm designed primarily to penetrate metal or armor, shall upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of 3, 4, or 10 years. Effective January 1, 2022, the court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence. (Pen. Code, § 12022.2, subd. (a).)
- 11) Provides that any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and

consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of one, two, or three years in the state prison. Effective January 1, 2022, the court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact. (Pen. Code, § 12022.4, subs. (a) & (b).)

- 12) States that except as provided, any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense. (Pen. Code, § 12022.5, subd. (a).)
- 13) States that except as provided, any person who personally uses an assault weapon, or a machinegun, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years. (Pen. Code, § 12022.5, subd. (b).)
- 14) Allows the court, in the interest of justice and at the time of sentencing, to strike or dismiss an enhancement otherwise required to be imposed by this section. The authority applies to any resentencing that may occur pursuant to any other law. (Pen. Code, § 12022.5, subd. (c).)
- 15) States that notwithstanding the limitation relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of assault if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death. (Pen. Code, § 12022.5, subd. (d).)
- 16) States that for purposes of imposing the aggregate sentence, the enhancements under this section shall count as one single enhancement. (Pen. Code, § 12022.5, subd. (f).)
- 17) Provides for the 10-20-life firearm law. A person who personally uses a firearm, whether or not the firearm was operable or loaded, during the commission of certain enumerated offenses¹ is subject to an additional consecutive term of 10 years in prison. If the firearm is personally and intentionally discharged during the crime, the defendant is subject to an additional consecutive term of 20 years in prison. If discharging the firearm results in GBI or death, the defendant is subject to an additional, consecutive term of 25-years-to-life in prison.² (Pen. Code, § 12022.53, subs. (b)-(d).)

¹ The felonies which trigger the enhancements under the 10-20-life firearm law are: murder; mayhem, kidnapping; robbery; carjacking; assault with intent to commit a specified felony; assault with a firearm on a peace officer or firefighter; specified sex offenses; assault by a life prisoner; assault by a prisoner; holding a hostage by a prisoner; any felony punishable by death or life imprisonment; and any attempt to commit one of these crimes other than assault. (Pen. Code, § 12022.53, subd. (a).)

² The felonies which trigger the 25-to-life enhancement also include discharge of a firearm at an inhabited dwelling and willfully and maliciously discharging a firearm from a motor vehicle. (Pen. Code, § 12022.53, subd. (d).)

- 18) Provides that if the offense is gang-related, the 10-20-life firearm enhancements shall apply to every principal in the commission of the offense. An enhancement for participation in a criminal street gang shall not be imposed in addition to an enhancement under this provision, unless the person personally used or personally discharged a firearm in the commission of the offense. (Pen. Code, § 12022.53, subs. (e)(1) & (e)(2).)
- 19) Provides that only one additional term of imprisonment under the 10-20-life firearm law shall be imposed per person per crime. An enhancement for use of a firearm shall not be imposed on a person in addition to an enhancement under this provision. (Pen. Code, § 12022.53, subd. (f).)
- 20) States that probation cannot be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of the 10-20-life law. (Pen. Code, § 12022.53, subd. (g).)
- 21) Allows the court, in the interest of justice, to strike or dismiss a 10-20-life enhancement. (Pen. Code, § 12022.53, subd. (h).)
- 22) Provides that if sentence is imposed pursuant to the 10-20-life law, the total amount of credits awarded shall not exceed 15 percent of the total term of imprisonment imposed. (Pen. Code, § 12022.53, subd. (i).)
- 23) Provides that notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years. (Pen. Code, § 12022.55.)
- 24) Limits initial not guilty by reason of insanity commitments to the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted and provides for commitment extensions. (Pen. Code, § 1026.5.)
- 25) Provides that a victim is entitled to reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings. (Cal. Const., Art. I, § 28(b)(7).)
- 26) Defines any felony in which the defendant used a firearm, as specified, as a violent felony. (Pen. Code, § 667.5, subd. (c)(8).)
- 27) Provides that where one of the new offenses is one of the specified violent felonies, in addition and consecutive to any other prison terms, the court must impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the specified violent felonies. However, no additional term shall be imposed for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction. (Pen. Code, § 667.5, subd. (a).)

- 28) Provides that where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail under realignment is imposed or is not suspended, in addition and consecutive to any other sentence therefor, the court shall impose a one-year term for each prior separate prison term for a sexually violent offense, as defined, provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both the commission of an offense which results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed under realignment or any felony sentence that is not suspended. (Pen. Code, § 667.5, subd. (b).)
- 29) Provides that the term for an offense, otherwise punishable as a county jail felony, must be served in state prison if the offense is on the violent felony list. (Pen. Code, § 1170, subd. (h)(3).)
- 30) Limits the award of presentence conduct and post sentence worktime credits to 15 percent of actual confinement time on a violent felony prison term. (Pen. Code, § 2933.1.)
- 31) Provides sentences of 15-years-to-life, 25-years-to-life, or life without the possibility of parole for certain sex crimes if specified circumstances are found to be true, including specified person use of a firearm enhancements. This is known as the One-Strike-Sex-Law. (Pen. Code, § 667.61.)
- 32) States that it is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a “one strike,” “three strikes” or habitual sex offender statute instead of engaging in plea bargaining over those offense. (Pen. Code, § 1192.7.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, “The Anti-Racism Sentencing Reform Act will rectify a relic of institutionalized racism by eliminating the use of most firearm enhancements and drastically reducing the enhancement in two Penal Code sections. Reducing the use of sentencing enhancements does not mean there are no punitive actions taken, but rather, the reduction aims to curtail the extreme sentencing lengths of people who are incarcerated. These sentencing enhancements have fueled mass incarceration for decades without deterring crime or making us any safer.

“Firearm enhancements are one of the most commonly used enhancements that add extra years to a person’s sentence. The latest available data shows that 40% of the entire incarcerated population are impacted by this specific enhancement – with people of color (Black, Brown, API and Indigenous) representing 89% of those with these enhancements. This is what institutionalized racism looks like.

“AB 1509 will result in significant state savings without jeopardizing public safety. The [data](#) is clear – enhancements do not improve public safety or effectively deter someone from committing harm. Our policy reform is a data-driven approach to reforming the criminal

legal system to make California safer.”

- 2) **Sentencing Enhancements:** “Generally speaking, sentencing enhancements derive their vitality from, and form a part of, the crime to which they are attached and alter the consequences the offender may suffer. The most direct consequence is additional punishment.” (*People v. Fuentes, supra*, 1 Cal.5th at p. 225, citation and quotations omitted.)
- 3) **Background of “Use of a Gun and You’re Done” Law (i.e., the 10-20-life Firearm Law):** “In 1997, the Legislature passed the “Use a Gun and You’re Done” law that significantly increased sentencing enhancements for possessing a gun at the time of committing a specified felony, such as robbery, homicide, or certain sex crimes. Under the law, if someone uses a gun while committing one of the identified crimes, their sentence is extended by 10 years, 20 years, or 25 years-to-life, depending on how the gun was used. Often the enhancement for gun use is longer than the sentence for the crime itself. For example, in the case of second-degree robbery, a person could serve a maximum of five years for the robbery and an extra 10 years for brandishing a gun during the robbery, even if the gun was unloaded or otherwise inoperable. Someone convicted of first-degree murder would be sentenced to at least 50 years-to-life if a gun was used, whereas if the murder was carried out using another method – such as strangulation – the sentence would be half the length (25 years-to-life). A judge has no discretion in applying this enhancement; if a gun was used, a judge must apply it.” (California Budget and Policy Center (2015) *Sentencing in California: Moving Toward a Smarter, More Cost-Effective Approach*.)

Deterrence was a driving factor behind this legislation: “The Legislature finds and declares that substantially longer prison sentences must be imposed on felons who use firearms in the commission of their crimes, in order to protect our citizens and to deter violent crime.” (AB 4 (Bordonaro, Chapter 503, Statutes of 1997.)

In 2017, the Legislature passed SB 620 (Bradford), Chapter 682, Statutes of 2017. This legislation allowed a court, in the interest of justice, to strike or dismiss a firearm enhancement which otherwise adds a state prison term of three, four, or 10 years, or five, six, or 10 years, depending on the firearm, or a state prison term of 10 years, 20 years, or 25-years-to-life depending on the underlying offense and manner of use.

- 4) **Sentence Increases: Research on the Deterrent Effect and Impact on State Prisons:**

In a 2014 report, the Little Hoover Commission addressed the disconnect between science and sentencing – that is, putting away offenders for increasingly longer periods of time, with no evidence that lengthy incarceration, for many, brings any additional public safety benefit. (<http://www.lhc.ca.gov/studies/219/Report219.pdf>.)

The report also explains how California’s sentencing structure and enhancements contributed to a 20-year state prison building boom, specifically remarking on the “significant sentencing enhancements” of the 10-20-life firearm law. (<http://www.lhc.ca.gov/studies/219/Report219.pdf>.)

- 5) **Prison Overcrowding:** In January 2010, a three-judge panel issued a ruling ordering the State of California to reduce its prison population to 137.5% of design capacity because overcrowding was the primary reason that CDCR was unable to provide inmates with

constitutionally adequate healthcare. (*Coleman/Plata vs. Schwarzenegger* (2010) No. Civ S-90-0520 LKK JFM P/NO.C01-1351 THE.) The United State Supreme Court upheld the decision, declaring that “without a reduction in overcrowding, there will be no efficacious remedy for the unconstitutional care of the sick and mentally ill” inmates in California’s prisons. (*Brown v. Plata* (2011) 131 S.Ct. 1910, 1939; 179 L.Ed.2d 969, 999.)

After continued litigation, on February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows: 143% of design bed capacity by June 30, 2014; 141.5% of design bed capacity by February 28, 2015; and, 137.5% of design bed capacity by February 28, 2016.

CDCR’s February 2021 monthly report on the prison population notes that the state prison population is 105.4% of design capacity. (<https://www.cdcr.ca.gov/3-judge-court-update/> [as of March 31, 2021].)

Thus, while CDCR is currently in compliance with the three-judge panel’s order on the prison population, the state needs to maintain a “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14).) The Covid-19 pandemic has underscored this: <https://www.hcn.org/issues/53.5/ideas-justice-will-covid-19-vaccinations-mean-more-prison-overcrowding-deaths> [as of April 21, 2021].)

- 6) **Argument in Support:** According to the *Ella Baker Center for Human Rights*, a co-sponsor of this bill, “The Anti-Racism Sentencing Reform Act will eliminate most gun enhancements and reduce the time associated with other gun enhancements to 1/2/3 years and open a pathway for resentencing for those serving time with relevant gun enhancements. Based in Oakland, the Ella Baker Center for Human Rights works to advance racial and economic justice to ensure dignity and opportunity for people with low income and people of color. For that reason, we support AB 1509 as it represents an important step in the struggle for decarceration and protection of our communities.

“Gun enhancements are the most commonly used enhancements that add extra years to a sentence. For example, if someone uses a gun during the commission of a robbery they could be charged for the offense which has a statutory range from 5 to 9 years, as well as additional time for the use of a gun, which could range anywhere from 10 years to a life term. The gun enhancement is then served consecutively, not concurrently, so a person may end up serving as much as five times as long as the underlying offense in enhancement time. The latest available data shows that 37,237 people in CDCR custody had some form of gun enhancement as part of their sentence. More than 89% of these individuals were people of color.

“Sentence enhancements are costly, ineffective, and contribute heavily to systemic racism in the criminal legal system. There are more than 150 sentence enhancements on the books across California’s Penal Code, however, there is no compelling evidence that their usage improves public safety. Instead, studies show initial incarceration prevents crime through incapacitation, each additional year of incarceration causes a 4 to 7 percent increase in recidivism that eventually outweighs the incapacitation benefit. Each year of incarceration

costs the state approximately \$81,000 per incarcerated person, with lifetime incarceration costing the state upwards of \$5 million per individual.

“Not only do enhancements not serve public safety goals, they also serve no meaningful deterrence purpose. Research on extreme sentence lengths offers little to no support for the idea that the threat of longer sentences deters people from committing crimes. What research has consistently found is that people age out of crime, so that by the time the state has sentenced someone to an extremely long sentence, they have reached an age where they no longer pose a threat to public safety.”

- 7) **Argument in Opposition:** According to the *California State Sheriffs' Association*, “...I regret to inform you that we are opposed to your measure, Assembly Bill 1509, which would eliminate specified firearm-related sentencing enhancements and reduce the available terms for other firearm enhancements. The bill would also permit resentencing for offenders who were sentenced under the current enhancement provisions.

“The use of a firearm in the commission of a felony is exceedingly dangerous behavior that is worthy of significant and appropriate punishment. Eliminating firearm enhancements and reducing time served undercuts the role these laws play in deterring criminal behavior and protecting our communities from those who have violated the law. Furthermore, the retroactive application of this proposal takes away appropriate remedies from victims of crimes who ostensibly sought and received resolution and justice.”

8) **Related Legislation:**

- a) AB 1540 (Ting), requires the court to provide counsel for the defendant when there is a recommendation from the California Department of Corrections and Rehabilitation, the Board of Parole Hearings, or the district attorney, to recall an inmate's sentence and resentence that inmate to a lesser sentence. AB 1540 is scheduled to be heard in this committee on April 27, 2021.
- b) AB 1245 (Cooley), allows a defendant who has served at least 15 years in the state prison to file a petition for recall and resentencing, and prohibits the court from denying the petition unless the court finds beyond a reasonable doubt that if released the defendant will commit a future violent crime. AB 1245 is scheduled to be heard in this committee on April 27, 2021.
- c) SB 81 (Skinner), provides guidance to courts by specifying circumstances for a court to consider when determining whether to apply an enhancement. SB 81 is pending in the Senate Committee on Appropriations.
- d) SB 483 (Allen), retroactively applies Senate Bill 180, of the 2017–2018 Legislative Session, and Senate Bill 136, of the 2019–2020 Legislative Session, to all persons currently serving a term of incarceration in jail or prison for these repealed sentence enhancements. SB 483 is scheduled to be heard in the Senate Committee on Public Safety on April 27, 2021.

- e) SB 481 (Durazo), extends the applicability of resentencing provisions, as specified, to any inmate serving a sentence of life without the possibility of parole for an offense that was committed when the inmate was under 26 years of age, and makes the process available to those inmates serving a sentence for murder in which the inmate tortured their victim, or in which the victim was a public safety official, including a firefighter or peace officer. SB 481 is scheduled to be heard in the Senate Committee on Public Safety on April 27, 2021.

9) **Prior Legislation:**

- a) SB 136 (Wiener), Chapter 590, Statutes of 2019, amended the one-year sentence enhancement for each prior prison or county jail felony term that applies to a defendant sentenced on a new felony by imposing the one-year sentence enhancement on a defendant sentenced on a new felony only if the defendant has a prior conviction for a sexually violent offense.
- b) AB 1393 (Mitchell and Lara), Chapter 1013, Statutes of 2018, allows a judge discretion to strike a prior serious felony conviction, in furtherance of justice, to avoid the imposition of the five-year prison enhancement when the defendant has been convicted of a serious felony.
- c) AB 2942 (Ting), Chapter 1001, Statutes of 2018, allows a defendant who was sentenced to a lengthy prison term to request a recommendation for resentencing from the district attorney after completing 15 years in prison or half of his or her total term, whichever is less.
- d) SB 1437 (Skinner), Chapter 1015, Statutes of 2018, limits liability for individuals based on a theory of first or second degree felony murder and allows individuals previously sentenced on a theory of felony murder to petition for resentencing if they meet specified qualifications.
- e) SB 180 (Mitchell), Chapter 677, Statutes of 2017, limited the current three year enhancement for a prior conviction related to the sale or possession for sale of specified controlled substance to convictions for a controlled substance offense where a minor was used or employed in the commission of the offense.
- f) SB 620 (Bradford), Chapter 682, Statutes of 2017, allows a court, in the interest of justice, to strike or dismiss a firearm enhancement which otherwise adds a state prison term of three, four, or 10 years, or five, six, or 10 years, depending on the firearm, or a state prison term of 10 years, 20 years, or 25-years-to-life depending on the underlying offense and manner of use.
- g) AB 2173 (Wayne), Chapter 126, Statutes of 2002, eliminated duplicative firearm and injury enhancements.
- h) AB 4 (Bordonaro), Chapter 503, Statutes of 1997, provided for the 10-20-life firearm law.

REGISTERED SUPPORT / OPPOSITION:**Support**

Anti-recidivism Coalition (Co-Sponsor)
 Bend the Arc: Jewish Action (Co-Sponsor)
 Blameless and Forever Free Ministries (Co-Sponsor)
 California United for A Responsible Budget (CURB) (Co-Sponsor)
 Congregations Organized for Prophetic Engagement (COPE) (Co-Sponsor)
 Dignity and Power Now (Co-Sponsor)
 Ella Baker Center for Human Rights (Co-Sponsor)
 Essie Justice Group (Co-Sponsor)
 Immigrant Legal Resource Center (Co-Sponsor)
 Initiate Justice (Co-Sponsor)
 Jesse's Place (Co-Sponsor)
 Kern County Participatory Defense (Co-Sponsor)
 Literacy Lab (Co-Sponsor)
 Ramsey's Place Organization (Co-Sponsor)
 Re:store Justice (Co-Sponsor)
 Reentry Relief Project INC. (Co-Sponsor)
 Root & Rebound (Co-Sponsor)
 Rubicon Programs (Co-Sponsor)
 Safe Return Project (Co-Sponsor)
 Secure Justice (Co-Sponsor)
 Starting Over INC. (Co-Sponsor)
 The Place4grace (Co-Sponsor)
 The Transformative In-prison Workgroup (Co-Sponsor)
 UC Berkeley's Underground Scholars Initiative (USI) (Co-Sponsor)
 Underground Scholars Initiative (Co-Sponsor)
 Underground Scholars Initiative At the University of California, Irvine (Co-Sponsor)
 White People 4 Black Lives (Co-Sponsor)
 Ywca Berkeley/oakland (Co-Sponsor)
 ACLU California Action
 Asian Americans Advancing Justice - California
 Asian Prisoner Support Committee
 Asian Solidarity Collective
 California Attorneys for Criminal Justice
 California Coalition for Women Prisoners
 California for Safety and Justice
 California Public Defenders Association (CPDA)
 Cat Clark Consulting Services LLC
 Center for The Study of Racism, Social Justice, and Health
 Communities United for Restorative Youth Justice (CURYJ)
 Community Advocates for Just and Moral Governance
 Community Legal Services in East Palo Alto
 Creative Acts
 Criminal Justice Clinic, UC Irvine School of Law

Democratic Party of The San Fernando Valley
 Democratic Socialists of America - Los Angeles
 Fair Chance Project
 Felony Murder Elimination Project
 Freedom 4 Youth
 Fuel
 Heals Project- Helping End All Life Sentences
 Homies Unidos INC
 Ikar
 Legal Services for Prisoners With Children
 Mourning Our Losses
 No Justice Under Capitalism
 Pillars of The Community
 Pilot.com, INC.
 Pride in Truth
 Progressive Democrats for Social Justice
 Repeal California's Three Strikes Law Coalition
 Restaurant Opportunities Centers of California
 San Francisco Public Defender
 San Joaquin Pride Center
 San Jose State University Human Rights Institute
 Showing Up for Racial Justice (SURJ) Bay Area
 Showing Up for Racial Justice (SURJ) San Diego
 Showing Up for Racial Justice North County
 Smart Justice California
 Team Justice
 The Everett Program At UC Santa Cruz
 Think Dignity
 Timelist Group
 Ucsf White Coats for Black Lives
 Uncommon Law
 United Communities for Peace
 Usc Suzanne Dworak Peck School of Social Work's Unchained Scholars
 We the People - San Diego
 Young Women's Freedom Center

371 Letters/Statements of incarcerated individuals
 242 private individuals

Oppose

California Association of Highway Patrolmen
 California District Attorneys Association
 California Peace Officers Association
 California Rifle and Pistol Association, INC.
 California State Sheriffs' Association
 Gun Owners of California, INC.
 Los Angeles Professional Peace Officers Association
 Peace Officers Research Association of California (PORAC)

Sacramento County District Attorney
San Diegans Against Crime
San Diego County District Attorney's Office
San Diego Deputy District Attorneys Association

2 individuals

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