

Date of Hearing: April 7, 2026  
Deputy Chief Counsel: Stella Choe

## ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 2450 (Johnson) – As Introduced February 20, 2026

**SUMMARY:** Revises the court’s authority to dismiss specified enhancements related to drug possession and trafficking under existing provisions of law that state that a court *shall* dismiss an enhancement if, in the court’s discretion, it finds that it is in the furtherance of justice to do so unless dismissal would endanger public safety, and instead specifies that the court *may* dismiss these specified enhancements in the furtherance of justice. Specifically, **this bill:**

- 1) States that a court is not required to, but may, in its discretion, dismiss an enhancement described below if it is in the furtherance of justice to do so:
  - a) Specified enhancements applicable upon a conviction for soliciting, inducing, encouraging, or intimidating a minor to violate laws on possession or sale of heroin, cocaine, cocaine base, or any analog of these substances if the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.
  - b) Specified enhancements applicable for persons convicted of possession for sale, transportation, or manufacturing specified controlled substances if the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.
  - c) Specified enhancements depending on weight of substances containing heroin, cocaine base or cocaine involved.
  - d) Specified enhancements applicable to manufacture or possession with intent to manufacture methamphetamine or phencyclidine (PCP) where a child is present or where the crime causes great bodily injury to a child.
  - e) Specified enhancements depending on the volume of the specified controlled substances involved.
  - f) Specified enhancements applicable for a person who solicits or furnishes controlled substances to a minor if the offense involved PCP, methamphetamine, lysergic acid diethylamide (LSD), or any analog of these substances and the offense occurred on the grounds of or within 1,000 feet of a school or other locations or if the minor was four years younger than the defendant.
- 2) Recasts existing law that states that a court shall not dismiss an enhancement if dismissal of that enhancement is prohibited by any initiative statute.

**EXISTING LAW:**

- 1) States that every person 18 years of age or older who commits any of the following shall be punished by imprisonment in the state prison for a period of three, six or nine years:
  - a) Solicits, induces, encourages or intimidates any minor with the intent that the minor shall violate existing provisions of law that prohibit use, or being under the influence of specified controlled substances;
  - b) Hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance; or,
  - c) Unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor. (Health & Saf. Code, § 11353.)
- 2) States that a person who is convicted of a violation of the above statute in addition to the punishment imposed for that conviction, shall receive an additional punishment as follows:
  - a) One year if the offense involved heroin, cocaine, cocaine base, or any analog of these substances and occurred upon the grounds of, or within, a church or synagogue, a playground, a public or private youth center, a child day care facility, or a public swimming pool, during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility;
  - b) Two years If the offense involved heroin, cocaine, cocaine base, or any analog of these substances and occurred upon, or within 1,000 feet of, the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs; or,
  - c) One, two, or three years at the discretion of the court if the offense involved a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11353.1.)
- 3) States that a person 18 years of age or older shall receive an additional punishment of three, four, or five years at the court's discretion if convicted of possession for sale or purchase for purposes of sale cocaine base, transports or sells specified controlled substances, or manufactures specified controlled substances where the violation takes place upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs, or the violation involves a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11353.6.)
- 4) Provides that a person convicted of a violation of, or of a conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing heroin, cocaine base as specified, or cocaine, shall receive an additional state prison term of three to 25 years depending on the weight. (Health & Saf. Code, § 11370.4, subd. (a).)

- 5) Provides that a person convicted of a violation of, or of conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional state prison term three to 15 years depending on weight or liquid volume. (Health & Saf. Code, § 11370.4, subd. (b).)
- 6) States that a person convicted of a violation of, or conspiracy to violate laws on possession for sale or transportation of controlled substances with respect to a substance containing fentanyl shall receive an additional state prison term of three to 25 years depending on weight. (Health & Saf. Code, § 11370.4, subd. (c).)
- 7) States, except as provided, any person convicted of manufacturing methamphetamine or PCP or possession of any compound or mixture with the intent to manufacture PCP, or attempt of those crimes, when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present, shall be punished by an additional term of two years in state prison. (Health & Saf. Code, § 11379.7, subd. (a).)
- 8) Specifies that where the commission of the crime described above causes any child under 16 years of age to suffer great bodily injury, the person convicted shall be punished by an additional term of five years in state prison. (Health & Saf. Code, § 11379.7, subd. (b).)
- 9) States that any person convicted of a violation of manufacturing specified controlled substances shall receive an additional term of three to 15 years depending on volume of the substance. (Health & Saf. Code, § 11379.8.)
- 10) States that every person 18 years of age or older who commits any of the following shall be punished by imprisonment in the state prison for a period of three, six or nine years:
  - a) Solicits, induces, encourages or intimidates any minor with the intent that the minor shall violate existing provisions of law that prohibit use, or being under the influence of specified non-narcotic drugs;
  - b) Hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such non-narcotic drug; or,
  - c) Unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such non-narcotic drug to a minor. (Health & Saf. Code, § 11380.)
- 11) Provides that any person who is convicted of a violation of the above provision, in addition to the punishment imposed for that conviction, shall receive an additional punishment as follows:
  - a) One year if the offense involved PCP, methamphetamine, LSD, or any analog of these substances and occurred upon the grounds of, or within, a church or synagogue, a playground, a public or private youth center, a child day care facility, or a public swimming pool, during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility;

- b) Two years if the offense involved PCP, methamphetamine, LSD, or any analog of these substances and occurred upon, or within 1,000 feet of, the grounds of any public or private elementary, vocational, junior high school, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs; or,
  - c) One, two or three years at the discretion of the court if the offense involved a minor who is at least four years younger than the defendant. (Health & Saf. Code, § 11380.1.)
- 12) Authorizes the court, either on its own motion or upon motion of the district attorney, and in furtherance of justice, to order an action to be dismissed. The reasons for the dismissal must be stated orally on the record, and entered in the minutes, if requested by either party. (Pen. Code, § 1385, subd. (a).)
- 13) Provides that if the court has the authority to strike or dismiss an enhancement, the court may instead strike the additional punishment for that enhancement in the furtherance of justice. (Pen. Code, § 1385, subd. (b)(1).)
- 14) States that, notwithstanding any other law, the sentencing court “shall dismiss” an enhancement “if it is in the furtherance of justice to do so” except if dismissal of that enhancement is prohibited by any initiative statute. (Pen. Code, § 1385, subd. (c)(1).)
- 15) Instructs the court to consider the following factors in determining whether it is in the interests of justice to dismiss an enhancement:
- a) Application of the enhancement would result in a discriminatory racial impact, as specified;
  - b) Multiple enhancements are alleged in a single case, in which case all enhancements but one shall be dismissed;
  - c) Application of the enhancement could result in a sentence of over 20 years, in which case the enhancement shall be dismissed;
  - d) The current offense is connected to mental illness, as specified;
  - e) The current offense is connected to prior victimization or childhood trauma, as specified;
  - f) The current offense is not a violent felony, as specified;
  - g) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case;
  - h) The enhancement is based on a prior conviction that is over five years old;
  - i) Though a firearm was used in the current offense, it was inoperable or unloaded. (Pen. Code, § 1385, subd. (c)(3)(A)-(I).)

- 16) Requires the court to consider and afford great weight to evidence offered by the defendant to prove that any of the aforementioned mitigating circumstances are present. (Pen. Code, § 1385, subd. (c)(2).)
- 17) States that proof of the presence of one or more of these mitigating circumstances weighs greatly in favor of dismissing the enhancement, unless the court finds that dismissal of the enhancement would “endanger public safety,” meaning that there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others. (Pen. Code, § 1385, subd. (c)(2).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “As a former mayor and city council member, I saw firsthand the devastation caused by drugs in our communities. Dealers who put children in danger should face harsh consequences, and AB 2450 restores true judicial discretion to the application of six different drug-related sentencing enhancements. By giving the power back to judges to impose appropriate penalties, we protect our neighborhoods and communities and keep dangerous criminals behind bars.”
- 2) **Sentence Enhancements Generally:** Existing law contains a multitude of enhancements that can be used to increase the term of imprisonment a defendant will serve. All enhancements must be specifically alleged in the accusatory pleading and proved or admitted by the defendant. Enhancements add time to a person’s sentence for factors relevant to the defendant such as prior criminal history or for specific facts related to the crime. Multiple enhancements can be imposed in a single case and can range from adding a specified number of years to a person’s sentence, or doubling a person’s sentence or even converting a determinate sentence into a life sentence.

A recent study on California’s use of its over 100 separate code sections containing enhancements reported that, of people incarcerated as of July 2022, 68% (66,550 people) have at least one sentence enhancement on their current sentence and 41% of people have sentences with two or more enhancements.<sup>1</sup> Four enhancement types were identified as accounting for roughly 80% of sentence years added since 2015, including: the Three-Strikes law, firearm enhancements, one and five-year prior enhancements, and gang enhancements.<sup>2</sup>

While deterrence is often the justification for increasing sentences, research shows that increased penalties generally fail to deter criminal behavior.<sup>3</sup> Instead, data shows a rise in deterrence linked with the likelihood of being caught and the perception of being caught.<sup>4</sup> In

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<sup>1</sup> Bird, et al., *Sentence Enhancements in California*, California Policy Lab (Mar. 2023) <https://capolicylab.org/sentence-enhancements-in-california/> [accessed Mar. 28, 2025].

<sup>2</sup> *Ibid.*

<sup>3</sup> *Five Things About Deterrence* (May 2016) National Institute of Justice <https://www.ojp.gov/pdffiles1/nij/247350.pdf> [accessed Mar. 28, 2025].

<sup>4</sup> *Ibid.*

contrast, the act of punishment and the length of punishment largely do not increase deterrence.<sup>5</sup>

In recent years, California has passed laws to reduce the severity of enhancements. SB 180 (Mitchell), Chapter 677, Statutes of 2017, limited the application of the three-year enhancement for a prior conviction related to the sale or possession for sale of specified controlled substances. SB 620 (Bradford), Chapter 682, Statutes of 2017, 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. SB 136 (Wiener), Chapter 590, Statutes of 2019, repealed the one-year sentence enhancement for each prior prison or county jail felony term that applied to a defendant sentenced on a new felony. SB 81 (Skinner), Chapter 721, Statutes of 2021, gave guidance to courts on when enhancements should be dismissed while retaining the court's discretion to apply enhancements when the court deems it to be appropriate.

- 3) **Dismissal of Enhancements and Application of SB 81:** Subdivision (a) of Penal Code section 1385 states that a judge may, in furtherance of justice, order an action to be dismissed. That provision has been interpreted to allow courts broad discretion to strike prior convictions and enhancements in order to provide individualized sentencing to a defendant. "Section 1385 has long been recognized as an essential tool to enable a trial court 'to properly individualize the treatment of the offender.'" (*People v. Tanner* (1979), 24 Cal.3d 514, 530.) "It was designed to alleviate 'mandatory, arbitrary or rigid sentencing procedures [which] invariably lead to unjust results.'" (*People v. Dorsey* (1972), 28 Cal.App.3d 15, 18.) "Society receives maximum protection when the penalty, treatment or disposition of the offender is tailored to the individual case. Only the trial judge has the knowledge, ability and tools at hand to properly individualize the treatment of the offender." (*People v. Williams* (1970) 30 Cal.3d 470, 482, citation and internal quotation marks omitted.) One of the purposes of Section 1385 is to ensure that sentences are proportional to a defendant's conduct.

SB 81 (Skinner), Chapter 721, Statutes of 2021, expanded upon existing law that provided judges with discretion to dismiss an enhancement pursuant to Penal Code 1385. SB 81 stated that if the court finds that dismissing an enhancement is in the furtherance of justice, the court shall do so unless the court finds that dismissing the enhancement would endanger public safety. "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others. SB 81 provided guidance to judges on how to make the determination of when to dismiss an enhancement by listing non-exclusive circumstances for the court to consider. These circumstances are as follows:

- (A) Application of the enhancement would result in a discriminatory racial impact as described in paragraph (4) of subdivision (a) of Section 745.
- (B) Multiple enhancements are alleged in a single case. In this instance, all enhancements beyond a single enhancement shall be dismissed.

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<sup>5</sup> *Ibid.*

(C) The application of an enhancement could result in a sentence of over 20 years. In this instance, the enhancement shall be dismissed.

(D) The current offense is connected to mental illness.

(E) The current offense is connected to prior victimization or childhood trauma.

(F) The current offense is not a violent felony as defined in subdivision (c) of Section 667.5.

(G) The defendant was a juvenile when they committed the current offense or any prior juvenile adjudication that triggers the enhancement or enhancements applied in this case.

(H) The enhancement is based on a prior conviction that is over five years old.

(I) Though a firearm was used in the current offense, it was inoperable or unloaded.

After SB 81 was signed into law, the Judicial Council amended and adopted Rules of Court on the application of the new law. Rule of Court 4.428 governs imposition of enhancements. In providing guidance on the application of SB 81, the court amended existing Rule 4.428 to include the following language:

(c) Dismissing enhancements under section 1385(c)

(1) The court shall exercise the discretion to dismiss an enhancement if it is in the furtherance of justice to do so, unless the dismissal is prohibited by initiative statute.

(2) In exercising its discretion under section 1385(c), the court must consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in section 1385(c) are present.

(A) In exercising its discretion under section 1385(c), the court must consider and afford great weight to evidence offered by the defendant to prove that any of the mitigating circumstances in section 1385(c) are present.

(B) The circumstances listed in 1385(c) are not exclusive.

(C) "Endanger public safety" means there is a likelihood that the dismissal of the enhancement would result in physical injury or other serious danger to others.

(3) If the court dismisses the enhancement pursuant to 1385(c), then both the enhancement and its punishment must be dismissed. (Cal. Rules of Court, rule 4.428(c), adopted effective March 14, 2022.)

The Advisory Committee included the following comments on determining “furtherance of justice” and “afford great weight” for purposes of the new law:

Case law suggests that in determining the "furtherance of justice" the court should consider the constitutional rights of the defendant and the interests of society represented by the people; the defendant's background and prospects, including the presence or absence of a record; the nature and circumstances of the crime and the defendant's level of involvement; the factors in aggravation and mitigation including the specific factors in mitigation of section 1385(c); and the factors that would motivate a "reasonable judge" in the exercise of their discretion. (Citing *People v. Romero* (1996) 13 Cal.4th 947; *People v. Dent* (1995) 38 Cal.App.4th 1726; *People v. Kessel* (1976) 61 Cal.App.3d 322; *People v. Orin* (1975) 13 Cal.3d 937.)

....

The court is not directed to give *conclusive weight* to the mitigating factors, and must still engage in a weighing of both mitigating and aggravating factors. A review of case law suggests that the court can find great weight when there is an absence of "substantial evidence of countervailing considerations of sufficient weight to overcome" the presumption of dismissal when the mitigating factors are present. (*People v. Martin* (1996) 42 Cal.3d 437.) In exercising this discretion, the court may rely on aggravating factors that have not been stipulated to by the defendant or proven beyond a reasonable doubt at trial by a jury or a judge in a court trial. (*People v. Black* (2007) 41 Cal.4th 799.) (Advisory Com. com, Cal. Rules of Court, rule 4.428(c).)

As made clear by the statutory language enacted by SB 81 ("In exercising its discretion under this subdivision . . . ." Pen. Code, § 1385, subd. (c)(2); see also Judicial Council's neutral position letter for SB 81 dated Aug. 24, 2021, "These amendments support the exercise of judicial discretion and also permit a court to consider public safety, as defined, when making its determination."), as well as the Rules of Court and related Advisory Committee comment, the listed circumstances provided by SB 81 do not *require* the court to dismiss any enhancement. Rather, the court is directed to consider the weight of both mitigating and aggravating circumstances and make a determination of whether to dismiss the applicable enhancement or enhancements. While the proof of the presence of one or more specified mitigating circumstances weighs greatly in favor of dismissing the enhancement, endangerment of public safety would outweigh those mitigating circumstances. The court also retains the discretion to find that dismissal would not be in the interests of justice without a finding that public safety would be endangered.

Recently, the California Supreme Court granted review of a case to determine whether "the amendment to Penal Code section 1385, subdivision (c) that requires trial courts to 'afford great weight' to enumerated mitigating circumstances (Stats. 2021, ch. 721) create a rebuttable presumption in favor of dismissing an enhancement unless the trial court finds dismissal would endanger public safety?" (*People v. Walker* (2024) 16 Cal.5th 1024.) The Court, after examining both the plain language of the statute and legislative history of SB 81 held that the court retains discretion:

[I]t is clear that the structure does not "presume" an enhancement should be dismissed whenever an enumerated mitigating circumstance is present, but instead "the ultimate question before the trial court remains whether it is in the furtherance of justice to dismiss

an enhancement” and this “furtherance of justice” inquiry requires a trial court’s ongoing exercise of “discretion.” Thus, notwithstanding the presence of a mitigating circumstance, trial courts retain their discretion to impose an enhancement based on circumstances “long deemed essential to the ‘furtherance of justice’ inquiry.”

(*Id.* at p. 1033, quoting *People v. Ortiz* (2023) 87 Cal.App.5th 1087, 1098-1099.) Thus, while the language in subdivision (c) of Penal Code section 1385 states that the court “shall” dismiss an enhancement if certain findings are met, the court retains discretion not to dismiss the enhancement in the interests of justice, without finding that dismissal endangers public safety. (*Ibid.*)

This bill excludes specified enhancements related to controlled substances from subdivision (c) of Penal Code section 1385’s provisions on dismissal of enhancements and instead provides that the court *may* dismiss such an enhancement if it is in the furtherance of justice. As discussed above, courts already have discretion to deny dismissal without relying on a finding that dismissal endangers public safety.

- 4) **Existing Laws on Selling, Furnishing, Manufacturing, Transporting Controlled Substances with Enhanced Penalties to Minors or in a School Zone:** Existing law prohibits selling, furnishing, administering, giving away specified controlled substances, or offering to commit those acts, to a minor. (Health & Saf. Code, §§ 11353, 11380.) The punishment for a violation of such an offense is 3, 6, or 9 years in state prison. Sentence enhancements of 1 to 3 years are available to add on to a person’s sentence for the underlying crime when the defendant is 4 years older than the minor, or if the offense occurred at specified locations such as a school, church or community centers. (Health & Saf. Code, §§ 11353.1, 11380.1.) A sentence enhancement of 3 years may also be added if the person to whom the substance was sold, furnished, administered or given suffers a significant or substantial physical injury from using the substance, such as an overdose. (Pen. Code, § 12022.7, subd. (f)(2).) Various sentence enhancements are also available depending on the weight or volume of the controlled substances. (Health & Saf. Code, §§ 11370.4, 11379.8) When those controlled substances include heroin, cocaine, PCP, or methamphetamine, the conviction qualifies as a strike for purposes of the Three Strikes Law. (Pen. Code, § 1192.7.) Enhanced sentencing including a life sentence may also apply to a person with prior convictions involving controlled substances. (Pen. Code, § 667.75.)
- 5) **Harsher Sentences Unlikely to Reduce Drug Use or Deter Criminal Conduct:** Ample research on the impact of increasing penalties for drug offenses on criminal behavior has called into question the effectiveness such measures. In a report examining the relationship between prison terms and drug misuse, PEW Charitable Trusts found “[n]o relationship between drug imprisonment rates and states’ drug problems,” finding that “higher rates of drug imprisonment did not translate into lower rates of drug use, arrests, or overdose deaths.”<sup>6</sup>

This may be because of the limited deterrent effect of harsher sentences generally.

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<sup>6</sup> <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>; see also [https://www.ccjrc.org/wp-content/uploads/2016/02/Correctional\\_and\\_Sentencing\\_Reform\\_for\\_Drug\\_Offenders.pdf](https://www.ccjrc.org/wp-content/uploads/2016/02/Correctional_and_Sentencing_Reform_for_Drug_Offenders.pdf)

According to the National Institute of Justice, “Laws and policies designed to deter crime by focusing mainly on increasing the severity of punishment are ineffective partly because criminals know little about the sanctions for specific crimes. More severe punishments do not ‘chasten’ individuals convicted of crimes, and prisons may exacerbate recidivism.”<sup>7</sup>

Harsher sentences for drug trafficking offenses specifically may be particularly ineffective, in part because of the nature of illicit drug markets.<sup>8</sup> The Council on Criminal Justice reviewed the evidence on the effect of harsher punishments on criminal behavior, finding:

The empirical evidence on selective incapacitation suggests that long sentences may produce short- and long-term public safety benefits for individuals engaged in violent offending, but may produce *the opposite effect* for those engaged in drug-related offending...where an incarcerated individual is quickly replaced by a new recruit. This “replacement effect” occurs—and undermines the overall crime-reducing effects of incapacitation—when there is “demand” for a particular criminal activity. The illicit drug business offers the most obvious example: when someone who plays a role in a drug trafficking organization is incarcerated, someone else must take his or her place.<sup>9</sup>

According to PEW, “[A] large body of prior research...cast[s] doubt on the theory that stiffer prison terms deter drug misuse, distribution, and other drug-law violations.”<sup>10</sup> PEW concludes:

Putting more drug-law violators behind bars for longer periods of time has generated enormous costs for taxpayers, but it has not yielded a convincing public safety return on those investments. Instead, more imprisonment for drug offenders has meant limited funds are siphoned away from programs, practices, and policies that have been proved to reduce drug use and crime.<sup>11</sup>

- 6) **Argument in Support:** According to *Peace Officers Research Association of California* (PORAC), “AB 2450 restores important judicial discretion in sentencing by allowing courts to determine whether dismissal of certain drug-related enhancements is appropriate, rather than requiring their dismissal in all cases. This change ensures that judges can consider the totality of the circumstances and make decisions that reflect the seriousness of the offense and the individual facts of each case.

“By preserving the court’s ability to impose or dismiss enhancements when warranted, this bill supports accountability while maintaining flexibility within the justice system. AB 2450 strikes a reasonable balance by allowing thoughtful, case-by-case decision-making without eliminating the option for dismissal when it is truly in the interest of justice.”

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<sup>7</sup> <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

<sup>8</sup> Cmte. On Causes and Consequence of High Rates of Incarceration, National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (2014) p. 146. (<<https://nap.nationalacademies.org/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>> [last visited Mar. 5, 2026].)

<sup>9</sup> Long Sentences Task Force, Council on Criminal Justice, *The Impact of Long Sentences on Public Safety: A Complex Relationship* (Nov. 2022) p. 8 <https://counciloncj.org/wp-content/uploads/2022/11/Impact-of-Long-Sentences-on-Public-Safety.pdf> [last visited Mar. 5, 2026] [internal citations omitted] [emphasis added].

<sup>10</sup> PEW, *supra*.

<sup>11</sup> *Ibid*.

- 7) **Argument in Opposition:** According to the *California Public Defenders Association*, “In other words, new paragraph would provide, that for those six enhancements, the general rule, that the court *shall* dismiss an enhancement if it is in furtherance of justice, does not apply; instead, the court would have the “discretion” to dismiss one of those six enhancements if it is in furtherance of justice to do so. Instead of being required (“shall”) to dismiss the enhancement if the court determines it is in furtherance of justice to do so, the court would have “discretion” to dismiss an enhancement if the court determines it is in furtherance of justice to do so.

“This reasoning would undermine the very perception of judicial fairness and enacts arbitrariness and capriciousness into the process. The sentencing court determines it is in furtherance of justice to dismiss an enhancement in furtherance of justice but exercises its discretion to go against that determination; to, instead, *not* dismiss it even though dismissal is in furtherance of justice.

“Moreover, that absurd result is not necessary. Under existing law, determination of whether or not dismissal of an enhancement is in furtherance of justice is a *holistic* determination, under which the totality of circumstances is taken into account. Under this holistic approach, the court may determine that in some respects dismissal of an enhancement is in furtherance of justice but that other respects are overriding and overcome the first set of respects, so that holistically, that is, in the totality of circumstances, dismissal is not in furtherance of justice.

“This holistic approach of interpreting section 1385, subdivision (c) has been endorsed by the California Supreme Court in *People v. Walker* (2024) 16 Cal.5th 1024, 1034-1036, quoting *People v. Ortiz* (2023) 87 Cal.App.5th 1087, 1096.

“While the rest of section 1385, subdivision (c), particularly subdivision (c)(2) describes several circumstances, such as past childhood trauma (subd. (c)(2)(E)) that should be given weight, they do not change the basic holistic process by which the court decides whether the totality of circumstances do or do not show that dismissal of the enhancement is in furtherance of justice.”

- 8) **Related Legislation:** AB 1667 (Boerner) would include furnishing fentanyl and fentanyl analogs to a minor within the definition of a serious felony. AB 1667 is pending hearing in the Assembly Appropriations Committee.
- 9) **Prior Legislation:**
- a) AB 991 (Essayli), of the 2025-2026 Legislative Session, was substantially similar to this bill but applied to the 10-20-life firearm enhancement. AB 991 was never heard by this committee.
  - b) AB 3037 (Essayli), of the 2023-2024 Legislative Session, was substantially similar to AB 991. AB 3037 failed passage in this committee.
  - c) AB 3077 (Hart), of the 2023-2024 Legislative Session, would have removed exclusions in existing law that prevent a criminal defendant with a diagnosis of borderline personality disorder (BPD) from participating in a county mental health diversion program after they are deemed incompetent to stand trial (IST), and from having their

mental illness considered for purposes of dismissing a sentencing enhancement in the furtherance of justice. AB 3077 was vetoed.

- d) AB 328 (Essayli), of the 2023-2024 Legislative Session, would have eliminated judicial discretion to dismiss or strike an allegation under the 10-20-life law except as specified. AB 328 failed passage in this committee.
- e) AB 27 (Ta), of the 2023-2024 Legislative Session, would have exempted specified firearm enhancements from a court's discretion to dismiss an enhancement if it is in the furtherance of justice to do so and does not endanger public safety. AB 27 failed passage in this committee.
- f) AB 931 (Villapudua), of the 2021-2022 Legislative Session, would have replaced the word "shall" with "may" in the law enacted by SB 81, Chapter 721, Statutes of 2021 giving courts additional guidance on striking enhancements. AB 931 failed passage in Senate Public Safety.
- g) SB 81 (Skinner), Chapter 721, Statutes of 2021, gave guidance to courts by specifying a non-exclusive list of circumstances for a court to consider when determining whether to dismiss an enhancement in the interests of justice.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Civil Liberties Advocacy  
 California State Sheriffs' Association  
 Peace Officers Research Association of California (PORAC)  
 Riverside County District Attorney  
 Riverside County Sheriff's Office

### **Opposition**

ACLU California Action  
 All of US or None (HQ)  
 California Public Defenders Association  
 Californians for Safety and Justice (CSJ)  
 Californians United for a Responsible Budget  
 Care First California  
 Coalition for Humane Immigrant Rights (CHIRLA)  
 Community Works West  
 Dignity and Power Now  
 Drug Policy Alliance 1  
 Ella Baker Center for Human Rights  
 Initiate Justice  
 Justice2jobs Coalition  
 LA Defensa  
 Legal Services for Prisoners With Children  
 Local 148 Los Angeles County Public Defender's Union

San Francisco Public Defender  
Smart Justice California, a Project of Beyond Impact

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