



Change Sentencing Options for Low-Level Offenders

The County of San Diego opposes changing sentencing options for certain offenders to make those crimes punishable by local custody only and not state prison.

Issue:

The May Revision proposes to eliminate the current sentencing options for specified crimes that may be treated either as felonies or misdemeanors (wobblers), making them punishable by a jail term rather than state prison. This proposal would shift the risk and service demands for these offenders to counties.

Fiscal Impact:

Potentially significant costs shifted to counties to house offenders in local custody and/or provide probation supervision to offenders in the community.

Service Impact:

Impact on Jails

Populations sentenced to local custody could increase by an estimated 1,750 offenders under this proposal. This number depends on which of the hundreds of wobbler offenses would be classified only as misdemeanors and if other limits would be placed on the discretion of the prosecutor to charge the offense. The assumptions used by the Governor in this proposal are not currently available.

If serious offenders that are sentenced to state prison under current law are alternatively sentenced to local custody, the County could not house the increased number of offenders in current facilities with staffing levels that have been recently reduced due to the economic downturn. County facilities are operating at capacity and some are under court ordered population limits. The Sheriff in San Diego County already operates under very restrictive booking policies due to these limits. With few exceptions, booking is restricted to felonies and those misdemeanors with a strong public safety nexus.

Impact on Probation

If serious offenders are sentenced to local probation, the County does not have the additional resources to supervise them. Staffing levels have been recently reduced due to the economic downturn. If the County is required to supervise these higher risk offenders, it could result in them being supervised in larger, banked caseloads.

Program Background:

Current law makes certain crimes punishable as misdemeanors or as felonies. The sentencing decision on wobblers is made by the criminal court, with the decision generally based on the specific circumstances of the crime and the criminal history of the offender. Prosecutors can charge certain crimes as misdemeanors.

This proposal and other proposals described below to reduce state prison and parole costs are in addition to \$400 million in reductions to the Department of Corrections and Rehabilitation that could also place very significant demands on local law enforcement.

Related Proposals:

In addition to the wobbler proposal, the May Revision proposes \$900 million in cuts to state prisons. This includes commuting prison terms for certain offenders and providing alternative placements and drastically reducing rehabilitative services in state prisons.

The LAO has also put forward a group of proposals (for FY 2009-10) in addition to the May Revision proposals to reduce state prison and parole populations. These include some of the same proposals described above and: early release of inmates; redirection of certain offenders to county jails rather than prison; sentencing adjustments / credits to reduce sentences; actions to prevent parolees from returning to prison on revocation of parole; reduce time served for violations of parole and implement alternative sanctions and earned discharge from parole.

All of these proposals could shift the risk and service demands of this population to local law enforcement at a time when local resources have fallen and local services reductions in public safety are already underway.