



CJCJ's 2007 Legislative Watch

As bills make their way through committee, CJCJ takes a moment to review promising legislation and unfortunate scare tactics in the area of criminal and juvenile justice. Among the most courageous: Assembly Member Sally Leiber proposes an end to youth prisons; Assembly Member Carter proposes restorative justice in juvenile justice; Senator Yee proposes the end of life without parole sentences for juveniles convicted of murder. Governor Schwarzenegger has also presented various reform possibilities in his 2007/08 proposed budget, some of which take a good first step toward effective correctional policy.

For further information on bills, including language, status and history, please visit www.leginfo.ca.gov. To read support and opposition letters submitted by CJCJ on many of the following bills, please visit www.cjcj.org.

CJCJ supports:

AB 77 (Leiber) Parole reform. The bill recognizes the crisis in California's parole system and the impact this issue has on state prison overcrowding. As a step to resolving the problem, the bill would require the creation of a working group to develop an action plan for parole reform. In addition, \$75,000 grants would be made available to any county that submits a proposal for the creation of multiagency local action plans relating to parolees. By the terms of the proposed legislation, the local action plans must be developed by a council to be comprised of the county's chief probation officer, a representative from the district attorney and public defender, sheriff's department board of supervisors, department of social services, department of mental health, a community-based substance abuse treatment program, the school district and community member.

Parole reform is a vital component of the work necessary to reduce the California prison population. While research consistently shows that California suffers under the highest rate of recidivism in the country, and that the failure of inmates to successfully return to the community impacts public safety and other collateral quality of life issues, California has done little to nothing to correct California's broken parole system. This bill recognizes not only the need, but the importance of requiring all community stakeholders to participate in identifying a satisfactory plan to respond to this issue.

AB 1300 (Price) Family Connection and Young Offender Rehabilitation Act of 2007. This bill would improve the ability of families to maintain contact with children housed in the Division of Juvenile Justice facilities. Specifically, AB 1300 will: 1) provide for long distance call options that are less expensive than the current collect call system; 2) prevent limitation of phone calls as a disciplinary measure; 3) provide for a toll-free number where families can learn of changes in visitation conditions or hours before traveling to facilities; 4) provides that young people will be housed in facilities close to their families whenever possible; and 5) add the provision of education and the promotion of family ties to the purposes of DJJ.

CJCJ supports AB 1300. Existing barriers to family contact undermine rehabilitative efforts and contribute to anger and depression among youth housed in DJJ facilities, contributing to violence and suicide. Families have the power to play a corrective role in youths lives, and to promote safety within facilities and in communities. Their engagement with young offenders should be encouraged and facilitated.

AB 1049 (Solorio) Parole: reentry programs. This bill requires the California Department of Corrections and Rehabilitation to establish reentry centers in 12 cities in Northern and Southern California. Reentry centers would target 18-24 year old individuals and would provide job training as well as various optional services, including education, counseling, and follow-up assistance. The bill, while advancing appropriate motivation to fulfill a dearth of opportunities for parolees in California communities, fails to identify funds to launch these programs. Thus, ultimately, the bill would promote a good cause with little potential for success. CJCJ supports the intention behind the bill, but does not support it without the identification of appropriate funding in place to support its implementation. Without an appropriation, the bill is an empty promise.

AB 161 (Bass) Anti-recidivism grants. This bill would create the Collaborative Opportunities for Rehabilitation and Employment (CORE) Act of 2007. Through the establishment of a competitive grant program, the CORE Act would seek collaboration between law enforcement agencies and community-based organizations to ensure that jail inmates can access and benefit from reentry services prior to release to the community. Grants will be made by the Department of Justice and applicants must show that their collaborative plans will address the challenges that face returning inmates by including the provision of services including “job training and placement, drug and alcohol abuse counseling, housing assistance, mental health assistance, and other comprehensive transitional services” to be administered in a manner responsive to the individual needs of each inmate.

SB 999 (Yee) Crime. Under existing law, a minor who is found guilty of first degree murder with special circumstances and was between 16 and 18 years of age at the time of the crime’s commission must be sentenced in state prison for a period of life without parole, or, at the discretion of the court, to an indeterminate sentence of 25 years to life. Senator Yee proposes to eliminate the option of life without parole for such an offense, and instead require a sentence of 25 years to life.

The bill is being promoted by Human Rights Watch, the National Center on Youth Law and the Archdiocese of Los Angeles. CJCJ supports this bill. Internationally, youth in the US represent 99.5% of the entire youth population sentenced to life without possibility of parole. Research has found that the sentence produces no deterrent effect, and its use affirms California's commitment to throw away young lives that are likely redeemable with appropriate time, treatment and resources.

AB 76 (Leiber) Corrections: female inmates. This bill would require the development of community-based female offender programs to be administered in rehabilitative community correctional centers. The centers would house both inmates and parolees; for some inmates, the successful completion of a 150-day aftercare residential drug program would

CJCJ supports this bill. The development of community-based facilities for nonviolent female offenders will decrease the number of women held in California's large prisons, and provide appropriate and cost-effective community care to individuals who will benefit more from treatment than incarceration. It must be emphasized that these facilities, under AB 76, will not become mini-prisons. Instead, the proposed facilities will provide services designed to improve the potential of women to successfully avoid future offending and criminal justice contact. Comprehensive services will address alcohol and drug addiction, trauma, mental and physical health care, and vocational and educational deficiencies, as recommended by experts in gender responsive correctional strategies. As sentencing reform is discussed by the legislature, gender-responsive strategies utilized by other jurisdictions should be considered, including family contact and parenting assistance.

CJCJ opposes:

SB 40 (Romero) Sentencing. This bill is a fast track response to the United States Supreme Court's decision in *U.S. v. Cunningham*, in which the court determined that the imposition of an aggravated sentence under California's triad sentencing regime cannot withstand constitutional scrutiny when justified by judicial fact-finding. This bill would allow complete discretion to the sentencing judge to decide among the three sentences presented in the triad, and the judge would not be required to enumerate facts on the record supporting the imposition of the longer term.

CJCJ opposes this bill because the grant of discretion to the judge overlooks the important distinction between California's triad system and other systems in which a judge can decide within a range. In California, a judge must decide among the three options; these options do not present a range, but a choice between three very disparate terms. For purposes of consistency and uniformity, California should seek fact-finding by a jury, as required by the Sixth Amendment, or an admission by the defendant. This could be accomplished more fairly by requiring prosecutors to allege any aggravating facts in the original criminal complaint. SB 40 is not an appropriate solution.

AB 79 (Galgiani) Parole. This bill would modify existing law allowing annual hearings for inmates sentenced to indeterminate sentences, unless the Board of Parole Hearings schedules a hearing at a later date due to its belief that parole would not be appropriate sooner. Under existing law, the Board must state its reasons in writing anytime a parolee's hearing is scheduled later than one year from a denial. In addition, the Deputy Commissioner of the Board of Parole Hearings must automatically review any hearing date that is five years from the denial. Galgiani's bill would automatically reschedule a Board of Parole Hearing for five years from the date of the initial denial.

CJCJ opposes this bill because the current prison crisis of overpopulation should not seek its solutions in longer sentences required with less intensive review of programs, successes, and issues presented precluding the granting of a parole date to an inmate.

AB 989 (Ridley-Thomas) Criminal street gangs. This bill would add the commission of a hate crime to the list of specified offenses that define a "pattern of criminal gang activity."

CJCJ opposes this bill because it further complicates the already complex sentencing laws under Proposition 21's mandate.

CJCJ is considering:

AB 360 (Carter) Juvenile court law: purpose. This two-year bill presents an innovative reform of the purpose behind juvenile sanctions to introduce a restorative justice model to California. While it slowly proceeds through the legislature over the next year, CJCJ suggests that other organizations interested in pursuing rational responses to crime that promote the restoration of juvenile offenders in the communities where they offend review the language and provide comment to the Assembly Member.

Governor Schwarzenegger's Proposals:

Of the Governor's proposals presented in his budget for 2007-2008, CJCJ supports a number of ideas.

CJCJ supports the plan to eliminate parole for certain individuals. California requires 95 percent of its prison inmates to serve a period of three years on parole after incarceration, regardless of their offense, their efforts at rehabilitation or their risk upon release to the community. This results in a massive expenditure of funds on many men and women who do not need supervision at the expense of others who should be monitored after release.

CJCJ supports the Governor's proposal to discharge parolees from parole after they complete 12 months of good time. While existing law requires parole to discharge nonviolent offenders upon one year of satisfactory conduct on parole, Penal Code

3001(a) gives the CDCR the discretion to retain a parolee. In practice, parolees are rarely discharged at one year, costing taxpayers more than \$59 million annually.

CJCJ opposes the Governor's proposal for a sentencing commission because the structure and authority granted to the commission would limit its ability to make effective change. CJCJ instead supports legislation proposing a sentencing commission vested with the authority to make recommendations to the legislature on sentencing policy and practices. These recommendations would be enacted into law unless action is taken by the Senate and Assembly to the contrary. Such authority will neutralize the lawmaking process to ensure that future revisions to California's sentencing law are rational, effective and protective of public safety.

The Center on Juvenile and Criminal Justice is a nonprofit, nonpartisan organization that offers policy analysis, program development and technical assistance in the criminal justice field. For more information, please visit www.cjcj.org.