



MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Supervisor Andrew Do, 1st District

Clear for Supervisor Do

S38H

Subject: Supplemental Agenda Item- Adopt Resolution to Request Governor Newsom Veto Senate Bill 136- Sentencing

Please add a supplemental item of business to the September 24, 2019 Board Agenda. The title of the supplemental item should read:

Adopt Resolution to Request Governor Newsom Veto Senate Bill 136-Sentencing

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CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

RESOLUTION OF THE BOARD OF SUPERVISOR OF ORANGE COUNTY, CALIFORNIA

September 24, 2019

WHEREAS, existing law provides that enhancement of prison terms for new offenses because of prior prison terms shall be imposed; and

WHEREAS, currently the enhancement of prison terms for new offenses is a "violent" felony, in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies. However, no additional term shall be imposed under this subdivision 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; and

WHEREAS, if the offenses are not violent and the above enhancement does not apply, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail as a realigned felony is imposed or is not suspended, in addition and consecutive to any other sentence the court shall impose a one-year term for each prior separate prison term or county jail term or when sentence is not suspended for any felony. However, no additional term shall be imposed for any prison term or county jail term 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 realigned felony or any felony sentence that is not suspended. (Penal Code § 667.5); and

WHEREAS, Senate Bill 136 (Wiener) would repeal the provision under Penal Code 667.5(b) that requires an additional one-year term for each prior separate felony that resulted in incarceration in jail or prison; and

WHEREAS, it is unclear why this particular enhancement should be eliminated; and

WHEREAS, currently the enhancement is imposed for repeat criminal behavior but only that behavior serious enough to merit incarceration rather than probation or some other alternative; and

WHEREAS, currently the enhancement is only imposed as the result of prior convictions meaning it applies only as the level of criminality increases.

WHEREAS, judges have full authority to strike any or all of this enhancement in the interest of justice, something the exact same advocates say is critical for other enhancements; and

WHEREAS, sentence enhancements are an effective tool used by judges to ensure sentences are proportionate to the seriousness of the crime; and

WHEREAS, enhancements acknowledge the seriousness of the harm inflicted upon victims, while holding accountable habitual and dangerous offenders who commit violent felonies; and

WHEREAS, the current enhancement for prior felony convictions ensures that person's past criminal conduct is taken into account if they commit a new crime; and

WHEREAS, the repeal of this enhancement treats career criminals the same as first time offenders; and

WHEREAS, a fair criminal justice system is dependent upon holding accountable those who seek to harm others; and

WHEREAS, the weakening of meaningful criminal sentences only further empowers the most serious offenders at the expense of California residents we are sworn to protect; and

WHEREAS, the premise of SB 136 is that a recalcitrant criminal should be sentenced the same as a first-time offender, despite a lengthy criminal history and a track record of disregard for the law

WHEREAS, this law would place the law abiding public and children unnecessarily at risk; and

NOW THEREFORE, BE IT RESOLVED BY the Board of Supervisors of the County of Orange, California that:

The Orange County Board of Supervisors requests Governor Gavin Newsom veto SB 136.