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Your Responsibility When Using the Information Provided Below:

When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in your institution's law library.

INFORMATION RE: CALIFORNIA'S THREE STRIKES LAW Updated January 2012

This letter is sent in reply to your request for information about California's three strikes law. We apologize for sending this "form" letter, but we are unable to provide individual responses to everyone who seeks our help. We hope that this letter will answer your questions.

The Three Strikes Law

This letter describes the basic rules of the three strikes law and the most important court cases interpreting those rules. The three strikes law, set forth at Penal Code § 667(b) through (i), became effective on March 8, 1994. A voters' initiative, which has essentially the same provisions, was approved on November 8, 1994 and is set forth at Penal Code § 1170.12. The three strikes law provides for increased punishment for criminal defendants who have prior convictions for serious or violent felonies. Proposition 21, which went into effect on March 8, 2000, added to the types of offenses that are deemed to be "strikes."

Since the three strikes law was enacted, many people have tried to overturn or modify the law and various voter propositions and legislative bills have been put forth. Unfortunately, none of these efforts have been successful yet. Attached to this letter is information about a proposed initiative to change the law which criminal justice advocates hope to get on the ballot for the November 2012 election. People who want to find out more about three strikes law challenges may want to contact Families to Amend California's Three Strikes (FACTS) at 3982 South Figueroa St. #209, Los Angeles, CA 90037. The FACTS website (www.facts1.net) also provides helpful information.

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What Counts as a Prior Strike Offense?

The violent and serious felonies that count as strike priors are listed in Penal Code §§ 667.5(c) and 1192.7(c). (See also Pen. Code § 667(d)(1).) An offense counts as a “prior” if the defendant was convicted (but not necessarily sentenced) in that case before he committed the new crime. (*People v. Williams* (1996) 49 Cal.App.4th 1632; *People v. Flood* (2003) 108 Cal.App.4th 504; *People v. Queen* (2006) 141 Cal.App.4th 838.) Prior offenses may be used as strikes even if they occurred before the passage of the original three strikes law or before Proposition 21 added the offense to the list of strike crimes. (*People v. Gonzales* (1995) 37 Cal.App.4th 1302; *People v. James* (2001) 91 Cal.App.4th 1147.)

A prior offense can be a strike regardless of whether the conviction was by a jury trial or a plea bargain. However, a plea from a prior case may sometimes be challenged when the offense is alleged as a strike in a new case. (*People v. Allen* (1999) 21 Cal.4th 424.) Under *Boykin v. Alabama* (1969) 395 U.S. 238 and *In re Tahl* (1969) 1 Cal.3d 122, a defendant who enters a plea must be must be advised of and waive the constitutional rights to a jury trial, to confront the witnesses and to avoid self-incrimination; to keep a prior conviction from being used as a strike in a later case, a defendant must show that when he took the plea, he did not know of those rights and did not intelligently waive them. Note that a defendant can challenge priors from other states or the federal system on *Boykin/Tahl* grounds only if that jurisdiction, like California, requires on-the-record advisement and waiver of the constitutional rights. (*People v. Green* (2000) 81 Cal.App.4th 463.)

Prior serious and violent felony convictions from jurisdictions outside California count as strikes if they have all the elements of one of the strike offenses set forth in the California Penal Code. (Pen. Code § 667(d)(2).)

Some juvenile adjudications also count as strikes. The general rule is that a juvenile offense can be used as a strike if the offense (1) is a serious or violent offense under the same rules that apply in adult criminal cases, (2) is listed in Welfare and Institutions Code § 707(b), and (3) the juvenile was 16 or 17 years old at the time of the offense. (Pen. Code § 667(d)(3); *People v. Leng* (1999) 71 Cal.App.4th 1; see also *People v. Nguyen* (2009) 46 Cal.4th 1007 [juvenile offenses may be used as strikes even though there is no right to a jury trial in a juvenile case].) However, there is a special exception – if a 16 or 17 year-old juvenile commits a serious or violent offense that is listed § 707(b) and another offense that is serious or violent but is not listed in § 707(b), then both offenses count as strikes. (*People v. Garcia* (1999) 21 Cal.4th 1.)

A prior felony can be used as a strike even if it has been “expunged.” (*People v. Diaz* (1996) 41 Cal.App.4th 1424 [Pen. Code § 1203.4 expungement]; *People v. Daniels* (1996) 51 Cal.App.4th 520 [Welf. & Inst. Code § 1772 expungement]; *People v. Laino* (2004) 32 Cal.4th 878 [non-California prior was strike even though it was “expunged” under other state’s laws].)

A “wobbler” (a crime that may be punished as either a misdemeanor or a felony) that is initially sentenced as a misdemeanor cannot be used as a strike. (Pen. Code § 667(d)(1); *People*

v. Glee (2000) 82 Cal.App.4th 99.) A violent or serious crime that is a wobbler counts as a prior strike if it is sentenced as a felony, even if the charge is later reduced to a misdemeanor. (Pen. Code § 667(d)(1); *People v. Franklin* (1997) 57 Cal.App.4th 68.)

Most of the categories of serious and violent felonies are straight-forward. However, there are some offenses where issues may arise. One of the most important is that assault with a deadly weapon under Penal Code § 245(a)(1) is a strike, but the other crime described in that subsection – assault by “means of force likely to produce great bodily injury” – is not a strike offense. (*People v. Rodriguez* (1998) 17 Cal.4th 253; *People v. Williams* (2001) 92 Cal.App.4th 612; *People v. Winters* (2001) 93 Cal.App.4th 273; *People v. Haykel* (2002) 96 Cal.App.4th 146.) Thus, a defendant’s § 245(a)(1) offense cannot be used as a strike unless documents establish that the crime qualifies as a strike. Notations in an abstract of judgment that say “Penal Code 245(a)(1)” or “ASLT GBI/DLY WPN” are not enough to prove the prior is a strike. (*People v. Rodriguez* (1998) 17 Cal.4th 253, 261-262.) Similarly, a prior that involved great bodily injury might not count as a strike if there is no proof that the defendant directly caused the injury (*People v. Rodriguez* (1999) 69 Cal.App.4th 341) or that the injury was not inflicted on an accomplice (*People v. Henley* (1999) 72 Cal.App.4th 555). Another rule is that a misdemeanor that was converted to a felony because it was committed on behalf of a gang (per Penal Code § 186.22(d)), does not count as a strike. (*People v. Briceno* (2004) 34 Cal.4th 451, 462.)

A defendant has a right to a jury trial on the prior offense allegations, but the jury decides only if the records presented to prove the prior conviction are true, accurate and establish that the defendant suffered the conviction. The judge determines if the prior qualifies as a strike. (*People v. Epps* (2001) 25 Cal.4th 19; *People v. Kelii* (1999) 21 Cal.4th 452; *People v. McGee* (2006) 38 Cal.4th 682.) Eyewitness testimony cannot be presented, but the court record from the prior conviction can be used to show that the offense was a strike; any document that is considered must be admissible under some exception to the hearsay rule. (See *People v. Guerrero* (1988) 44 Cal.3d 343; *People v. Reed* (1996) 13 Cal.4th 217; *People v. Bartow* (1996) 46 Cal.App.4th 1573, *People v. Henley* (1999) 72 Cal.App.4th 555.) In addition, a defendant has a constitutional right to testify to deny that the prior belongs to him or to explain why it does not qualify as a strike. (*Gill v. Ayers* (9th Cir. 2003) 342 F.3d 911.) If a prior strike allegation is overturned on appeal for lack of sufficient evidence, the District Attorney may retry the allegation. (*Monge v. California* (1998) 524 U.S. 721 [retrial of prior offense allegation is not barred by the constitutional prohibition on double jeopardy].)

Strike priors do not have to be brought and tried separately, so multiple convictions for violent or serious crimes arising from a single case will count as more than one strike. (*People v. Fuhrman* (1997) 16 Cal.4th 930.) A prior offense counts as a strike even if punishment on that offense was stayed pursuant to Penal Code § 654 (which bars multiple punishment for a single act or course of conduct). (*People v. Benson* (1998) 18 Cal.4th 24.) However, if a defendant was induced to plead guilty based entirely or partly on a promise that the plea would result in only one strike, then that promise may be enforced by the courts. (*Davis v. Woodford* (9th Cir. 2006) 446 F.3d 957, 960-963.)

What are the Consequences of Having One or More Prior Strike Offenses?

In general, the law requires increased sentences, with reduced opportunities to earn time credits, upon conviction of any type of felony if the defendant has one or more prior “violent” or “serious” felony convictions on his or her record.

Increased Sentences

- A person with one or more prior strike convictions is not eligible for probation. (Pen. Code § 667(c)(2).)
- A person with one prior strike conviction (a “second-striker”) is subject to a doubled sentence. (Pen. Code § 667(e)(1).) Both the base term and any consecutive terms are doubled. (*People v. Nguyen* (1999) 21 Cal.4th 197.) If the current felony carries an indeterminate life term, the minimum term is doubled. (Pen Code § 667(e)(1).)
- A person with two or more prior strike convictions (a “third-striker”) is subject to a sentence of at least 25 years to life. The minimum term may be more depending on the nature and number of the new convictions. (Pen. Code § 667(e)(2).) If the current felony carries an indeterminate life term, the minimum term is tripled. (Pen Code § 667(e)(2).)
- The three strikes law requires that consecutive sentences be imposed in some circumstances. A person with one or more prior strikes must receive consecutive sentences on each of the new offenses unless the offenses were committed on the same occasion or arose from the same set of operative facts. The phrase ‘committed on the same occasion’ refers to a close temporal and spatial proximity, although it may involve other factors as well. (Pen. Code § 667(c)(6); *People v. Deloza* (1998) 18 Cal.4th 585; *People v. Hendrix* (2000) 24 Cal.4th 219; see also *People v. Caspar* (2004) 33 Cal.4th 38 [law required consecutive sentences for all current felony convictions even though court dismissed strike allegations as to all but one count].) Also, consecutive sentences must be imposed if there are current convictions for more than one serious or violent felony. (Pen. Code § 667(c)(7).) In addition, a two-or-three strikes sentence must be consecutive to any other sentence the defendant is already serving. (Pen. Code § 667(c)(8).)
- Conduct enhancements and other prior conviction enhancements are not doubled or tripled under the two or three strikes laws. (*People v. Dominguez* (1995) 38 Cal.App.4th 410, 424.)
- The same prior offense can be used both as a strike and to impose a 5-year enhancement under Penal Code § 667(a), if the current offense is a serious felony. (*People v. Ramirez* (1995) 33 Cal.App.4th 559; *People v. Dotson* (1997) 16 Cal.4th 547.) The same prior offense can be used as both a strike and to impose a 1-year enhancement for a prior prison term under Penal Code § 667.5(b). (*People v. Cressy* (1996) 47 Cal.App.4th 981.) Likewise, the same prior can be a strike and an element of the current offense (such as

felon on possession of a firearm, petty theft with a prior, or failure to register as a sex offender). (*People v. Nobleton* (1995) 38 Cal.App.4th 76; *People v. White Eagle* (1996) 48 Cal.App.4th 1511; *People v. Garcia* (2001) 25 Cal.4th 744.)

Reduced Ability to Earn Conduct Credits

- A “second-striker” can earn no more than one day of conduct credits for each five days of actual time served in prison (in other words, he or she must serve “80%” of the sentence). (Pen. Code § 667(c)(5).) Prior to sentencing, a second-striker can earn “one-third” time (two days of conduct credit for every four days) served in a county jail or other facility. (Pen. Code §§ 2933(c) and 4019.) However, if the defendant’s current conviction is for a violent felony, both pre-sentence and prison credits will be capped at 15%. (Pen. Code § 2933.2.) If the current conviction is for murder, a defendant may not earn any conduct credit either before or after sentencing. (Pen. Code § 2933.1.)
- A “third-striker” earns no good conduct or worktime credits in prison. (*In re Cervera* (2001) 24 Cal.4th 1073.) Prior to sentencing, a third-striker can earn “one-third” time (two days of conduct credit for every four days) served in a county jail or other facility. (Pen. Code §§ 2933(c) and 4019.) However, if the defendant’s current conviction is for a violent felony, both pre-sentence and prison credits will be capped at 15%. (Pen. Code § 2933.2.) If the current conviction is for murder, a defendant may not earn any conduct credit either before or after sentencing. (Pen. Code § 2933.1.)

If I Have Prior Strikes, Does a Judge Have the Power to Give me a Lesser Sentence?

There are several ways in which a judge can exercise sentencing discretion and decide whether or not to give a defendant less than a full three strikes term.

Striking a Current Offense or Enhancement

Even in a two or three strikes case, a judge can reduce a defendant’s punishment by striking the punishment for one of the current counts in the interest of justice under Penal Code § 1385. Also, courts can strike the punishment for some types of conduct or recidivist enhancements; this power depends on whether or not the statute pertaining to the enhancement specifically takes away the general power to strike set forth in § 1385. (See generally, *People v. Bradley* (1998) 64 Cal.App.4th 386; *People v. Herrera* (1998) 67 Cal.App.4th 987.) For example, the laws state that a judge cannot strike a 5-year enhancement for a prior serious felony (Pen. Code § 667(a); see Pen. Code § 1385(b)) or some types of firearm enhancements (Pen. Code §§ 12022.5 and 12022.53). However, many other types of enhancements can be stricken.

Also, if a defendant has a current drug offense, a judge may be able to grant Deferred Entry of judgment even if the defendant has prior strikes; however, a defendant who fails to perform satisfactorily in the treatment program may end up facing sentencing on the underlying drug charge and strikes. (*People v. Davis* (2000) 79 Cal.App.4th 251.) Also, some defendants

with prior strikes and current charges of drug possession or transportation for personal use may be eligible for probation and treatment under Proposition 36. (Pen. Code § 1210.1(a) and (b).)

Reducing a Wobbler Offense to a Misdemeanor

Where a crime is a “wobbler” offense, meaning that it can be punished either as a misdemeanor or a felony, a judge has the power to declare the crime to be a misdemeanor. (Pen. Code § 17(b).) Courts retain this power even where one or more strike priors have been proven; a court’s decision will generally be upheld on appeal unless it was irrational or arbitrary or the court relied on considerations not pertinent to the specific defendant being sentenced (such as a general dislike of the three strikes law). (*People v. Alvarez* (1997) 14 Cal.4th 968.) If a wobbler offense is sentenced as a misdemeanor, the two or three strikes law will not apply to that count because that law applies only when there is a current felony conviction.

Striking One or More Prior Offenses

The three strikes law did not take away a judge’s power under Penal Code § 1385 to stay or dismiss prior serious or violent felony convictions when the judge believes that doing so would be “in the interests of justice.” (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 504.)

When deciding whether a prior felony should be stricken in the furtherance of justice, a court must determine whether a defendant’s record and current offense falls outside the “spirit” of the three strikes law. Factors to be considered include the nature and circumstances of the present felonies and prior serious and/or violent felony convictions, and the defendant’s background, character, and prospects. (*People v. Williams* (1998) 17 Cal.4th 148, 161; *People v. Garcia* (1999) 20 Cal.4th 490.) Relevant facts include whether the priors arise from a single period of aberrant behavior, whether the defendant cooperated with the police, and whether the defendant’s history is devoid of any actual violence. (*People v. Garcia* (1999) 20 Cal.4th 490, 503.) Likewise, priors may properly be stricken where they are old, the current offense is minor and non-violent, and the defendant has a stable lifestyle. (See *In re Saldana* (1997) 57 Cal.App.4th 620, 624; *People v. Bishop* (1997) 56 Cal.App.4th 1245, 1248; see also *People v. Cluff* (2001) 87 Cal.App.4th 991.) Priors should also be stricken when one or more of a defendant’s prior strikes are very connected, such as when the convictions arise from a single act. This is a more stringent test than that set forth in Penal Code 654, which bars multiple punishment for a single act or if a defendant commits multiple acts in an indivisible course of conduct. (*People v. Burgos* (2004) 117 Cal.App.4th 1209; *People v. Scott* (2009) 179 Cal.App.4th 920.)

The judge’s decision will be upheld on appeal so long as it is rational, not arbitrary, and is guided by the applicable legal principles and relevant facts. (See *People v. Benson* (1998) 18 Cal.4th 24, fn. 8; *People v. Carmony* (2004) 33 Cal.4th 367; see also *People v. Thimmess* (2006) 41 Cal.App.4th 1207 [remanding for new *Romero* hearing where trial court had relied on unsupported presumption that the defendant had been warned about consequences when he entered prior guilty plea].) However, in some circumstances, it may be an abuse of a discretion

for a judge to refuse to dismiss a strike prior. (*People v. Cluff* (2001) 87 Cal.App.4th 991 [abuse of discretion to refuse to strike prior where current offense was technical failure to update sex offender registration, priors were from a single old case, and defendant had since been law-abiding]; *People v. Burgos* (2004) 117 Cal.App.4th 1209 [abuse of discretion to refuse to strike prior where two priors were closely connected].) In other cases, it may be an abuse of discretion to strike a prior if the defendant's current offense and prior record are so bad that the defendant falls within the "spirit" of the three strikes law. (*People v. Williams* (1998) 17 Cal.4th 148.)

Is a Three Strikes Sentence Ever Cruel and Unusual Punishment?

The United States Constitution's Eighth Amendment forbids punishment that is cruel or unusual. Many courts have found three strikes sentences to be constitutional, even in cases where the defendant's current offense was very minor and the priors were old, committed in one brief crime spree, and/or non-violent. In such cases, the courts have decided that life sentences were not "grossly disproportionate" to the defendants' actions because they were based on histories of repeated offenses and because California lawmakers had a reasonable basis for believing the three strikes law would protect public safety and deter recidivism. (See, e.g. *Lockyer v. Andrade* (2003) 538 U.S. 63 [current crimes were petty theft with priors and strikes were three burglaries]; *Ewing v. California* (2003) 538 U.S. 11 [current crime was grand theft and strikes were three burglaries and a robbery committed during short time period]; *People v. Cooper* (1996) 43 Cal.App.4th 815, 820 [ex-felon in possession of handgun with two prior robberies over 10 years old]; *People v. Cartwright* (1995) 39 Cal.App.4th 1123, 1134-1137; *Rios v. Garcia*, 390 F.3d 1082, 1086 (9th Cir.2004) [petty theft with prior and two prior robbery convictions]; *Taylor v. Lewis* (2006) 460 F.3d 1093; 460 F.3d at 1101-02 [possession of cocaine with prior offenses involving violence]; *Nunes v. Ramirez-Palmer*, 485 F.3d 432, 439 (9th Cir.2007) [petty theft with prior and defendant had extensive and serious record]; *People v. Nichols* (2009) 176 Cal.App.4th 428, 435-436 [failure to register as a sex offender that made defendant unavailable for police surveillance].)

Nonetheless, a few prisoners have had their three strikes sentences overturned by the courts. In *Banyard v. Duncan* (C.D. Cal. 2004) 342 F.Supp.2d 865, a federal district court overturned a three-strikes life sentence for possessing a single-use amount of cocaine base with prior convictions for a factually non-violent "robbery" and an assault stemming from a mutual fight. In *Ramirez v. Castro* (9th Cir. 2004) 365 F.3d 755, 772, a prisoner convinced the Ninth Circuit Court of Appeals that it was cruel and unusual punishment to sentence him to 25-years to life sentence for petty theft with a prior where his two prior robbery strikes were actually non-violent shopliftings. In *Reyes v. Brown* (9th Cir. 2005) 399 F.3d 964, the same court sent a case back for further hearing, indicating that a life sentence might be unconstitutional for perjury (making a mis-representation on a DMV application) if the defendant's two old prior strike offenses did not actually involve violence. Also, in *People v. Carmony* (2005) 127 Cal.App.4th 1066, a state court of appeal held that a life sentence for a technical failure to update a sex offender registration (when none of the prior information had changed) was cruel and unusual punishment; the defendant's strike offenses were old and unrelated to the current offense and the current offense did not demonstrate any threat to public safety. The Ninth Circuit Court of Appeals also found that a life sentence for a defendant's technical failure to update his

registration was cruel and unusual, even though the defendant had an extensive criminal history. (*Gonzalez v. Duncan* (9th Cir. 2008) 551 F.3d 875.) Another case involving a life sentence for a sex offender registration violation is currently on review before the California Supreme Court. (*In re Coley*, No. S185303.)

How Can I Avoid or Challenge a Three Strikes Sentence?

Detailed information about how to challenge a three strikes sentence is beyond the scope of this letter. However, we will outline some basic ways by which such a sentence may be avoided or challenged. These include:

- at sentencing, asking the court to strike one or more of the current charges or prior offenses and/or filing a motion asserting that a three strikes sentence would be cruel and unusual punishment. If you are currently facing criminal charges and a three-strikes sentence, you should discuss this issue with your defense attorney.
- challenging the sentence in a direct appeal. If you are currently appealing your criminal case, you should discuss these issues with your appellate attorney.
- challenging the sentence in a petition for writ of habeas corpus filed in state court, if your issue involves evidence not presented in the original trial court proceeding or for some other reason was not raised on direct appeal.
- after the issue has been raised in all levels of the California state courts, challenging the sentence in a petition for writ of habeas corpus filed in federal court.

Stanford Law School has a Three Strikes Project, which is the only legal organization in the country devoted to representing people challenging life sentences under California's three strikes law. The Project represents defendants charged under the law with minor, non-violent felonies at all stages of the criminal process: at trial, on appeal, and in state and federal habeas corpus proceedings. Prisoners who are interested in the Project's services should write to request a questionnaire; do not send any briefs, transcripts or other documents unless requested to do so. The address is:

Stanford Three Strikes Project
Re: Potential Client
Mills Legal Clinic at Stanford Law School
559 Nathan Abbott Way
Stanford, California 94305-8610.

In addition, more information about filing a direct appeal, state habeas petition or federal habeas petition, including procedural requirements and time limits, is available in free self-help packets that may be requested from The Prison Law Office. There is also information on these types of legal actions in *The California State Prisoners Handbook* (Fourth Edition 2008 and 2011 Supplement). The *Handbook* should be available in the prison law libraries.

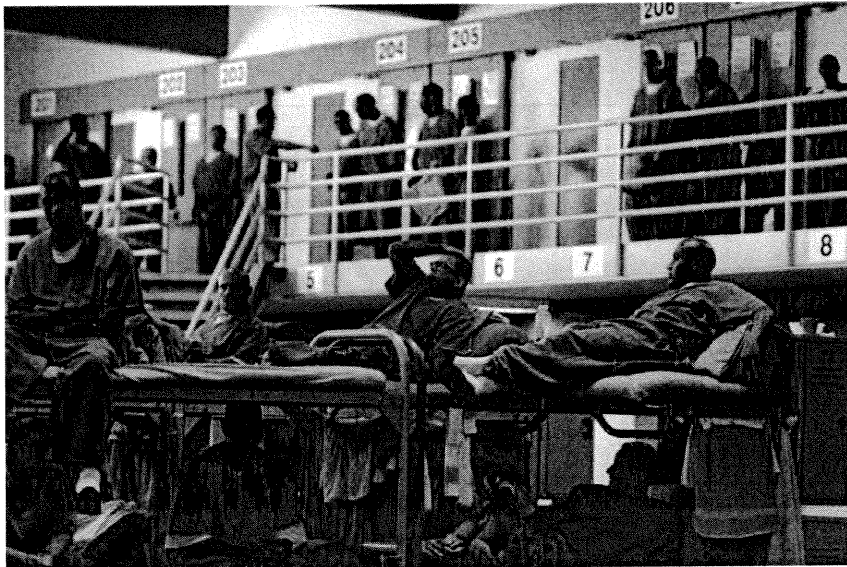
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ON POLITICS IN THE GOLDEN STATE

Plan to change three-strikes law moves toward November ballot

January 3, 2012 | 11:19 am



California voters may once again have the opportunity to change the state's three-strikes mandatory-sentencing law.

An initiative to change the law has been cleared to gather petition signatures, a potential step toward the November ballot. The proposed change would reduce the sentences of some currently serving time, and reduce prison time for those who are convicted of nonviolent felonies and already have two prior felony strikes.

In an economic analysis of the measure, the state's legislative analyst said the initiative, if passed, would save the state money but could increase costs for local governments.

"The changes would result in state prison savings, potentially ranging up to the high tens of millions of dollars annually in the short run, possibly growing in excess of \$100 million annually in the long run," the analyst's report said.

At least some of those savings would be offset by increased court and jail costs for counties, the analyst wrote.

Proponents of the measure must now gather more than 500,000 signatures to qualify for the ballot. California voters rejected a change in the law in 2004.

-- Anthony York in Sacramento

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Photo: Inmates at the California State Prison in Lancaster on June 10, 2010. Credit: Gary Friedman / Los Angeles Times

December 15, 2011
Initiative 11-0057

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

THREE STRIKES LAW. SENTENCING FOR REPEAT FELONY OFFENDERS.

INITIATIVE STATUTE. Revises three strikes law to impose life sentence only when new felony conviction is serious or violent. Authorizes re-sentencing for offenders currently serving life sentences if third strike conviction was not serious or violent and judge determines sentence does not pose unreasonable risk to public safety. Continues to impose life sentence penalty if third strike conviction was for certain non-serious, non-violent sex or drug offenses or involved firearm possession. Maintains life sentence penalty for felons with non-serious, non-violent third strike if prior convictions were for rape, murder, or child molestation. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government:

State savings related to prison and parole operations that potentially range in the high tens of millions of dollars annually in the short run, possibly exceeding \$100 million annually in the long run. Increased state and county costs in the millions to low tens of millions of dollars annually in the first few years, likely declining substantially in future years, for state court activities and county jail, community supervision, and court-related activities.

(11-0057)

Stanford Law School

Stanford Three Strikes Project

Overview

The Stanford Three Strikes Project is the only legal organization in the country devoted to representing individuals serving life sentences under California's Three Strikes law. The Project represents defendants charged under the Three Strikes law with minor, non-violent felonies at every stage of the criminal process: at trial, on appeal, and in state and federal post-conviction habeas corpus proceedings. The Project also works, on behalf of its clients in collaboration with the NAACP Legal Defense Fund, to reform the harshest aspects of the Three Strikes law.

The Three Strikes law was enacted through the initiative process in 1994. Today, it is widely recognized as the harshest sentencing law in the United States. Over 4,000 inmates in California are serving life sentences under the Three Strikes law for non-violent crimes.

Past and current project clients have been given life sentences for minor offenses including stealing one dollar in loose change from a parked car, possessing less than a gram of narcotics, and attempting to break into a soup kitchen.

In addition to our litigation and public policy work, the Project is deeply committed to a pedagogic mission of experiential clinical education. Project students enroll in an intensive seminar in advanced criminal law and take primary responsibility for litigating our cases. Students lead the Project's field investigations, draft legal documents, and argue in open court. Since 2009, Project students have led one of the country's most successful criminal defense organizations, winning the early release of more than a dozen clients. Former student Ashley Simonsen, '10 says the Project offered her "the richest, most meaningful experience of my law school career. The work is not only important, but also complex and fascinating."

The project is supervised and instructed by Michael Romano, who founded the clinic with Professor Larry Marshall. Mr. Romano has been recognized as one of the top lawyers in California. Professor Marshall is a nationally recognized leader in criminal justice advocacy and public policy. He played a key role in exonerating a dozen wrongfully convicted death row inmates, and in leading the campaign to secure clemency for over 150 condemned inmates in Illinois. One of the aspirations of the Project is to adopt the clinical pedagogy, litigation strategies, and policy reform developed in the context of capital and innocence programs and apply them to the project's cases under the Three Strikes law.