

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 22, 2010  
POSITION: Oppose

BILL NUMBER: SB 399  
AUTHOR: L. Yee

**BILL SUMMARY: Sentencing**

This bill would authorize a prisoner who was under 18 years of age at the time of committing an offense for which the prisoner was sentenced to life without parole to submit a petition for recall and resentencing to the sentencing court, as specified.

**FISCAL SUMMARY**

According to the Administrative Office of the Courts (AOC), the additional costs to the court system are unknown and would depend on the volume of cases eligible for resentencing each year and the number of prisoners requesting resentencing. Requiring the trial courts to implement additional case-processing procedures would increase the courts' workload and contribute to existing backlogs in criminal and civil case processing thus exacerbating the need for additional courtrooms and judicial officers to manage expanding caseload.

We note that the demand for additional courts and judicial officers increases pressure on the General Fund. We also note that to the extent the court resentsences an individual who submits a petition for recall to a new term that is less than their previous term, the state would realize savings resulting from the shorter incarceration period. However, we would expect any savings achieved to be minor, especially in comparison to the upfront costs incurred by the courts.

During this time of limited state resources, it would be difficult to fund these new costs, especially since savings from resentencing is far from guaranteed.

**SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the June 25, 2009 version include the following amendments which do not change our position:

- Provides that defendants who have served 10 years, but no more than 15 years, as of January 1, 2011 shall not be permitted to submit a petition until they have served 15 years.
- Alters specified dates and timelines to be consistent with the bill's effective date of January 1, 2011.
- Makes various technical changes.

**COMMENTS**

The Department of Finance is opposed to this measure because it would create a General Fund pressure to fund new workload at a time when the state is facing a budget deficit.

(Continued)

Analyst/Principal (0211) J. Osborn	Date	Assistant Program Budget Manager Zlatko Theodorovic	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

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**ANALYSIS**

## A. Programmatic Analysis

Existing law provides that minors age 14 and older can be subject to prosecution in adult criminal court depending upon their alleged offense and their criminal offense history. Existing law also provides that a defendant found guilty of murder in the first degree who was 16 years of age or older and under 18 years of age at the time of the commission of the crime be sentenced to life without the possibility of parole or, at the discretion of the court, 25 years to life.

This bill would:

- Authorize a prisoner who was under 18 years of age at the time of committing an offense for which the prisoner was sentenced to life without parole to submit a petition for recall and resentencing to the sentencing court, as specified.
- Establish certain criteria to be considered when a court decides whether to conduct a hearing on the petition for recall and resentencing and whether to grant the petition.
- Require the court to hold a hearing if the court finds that the criteria are met, as specified.
- Apply retroactively, as specified.

## B. Fiscal Analysis

According to the AOC, resentencing hearings typically take about 2 hours of court time (estimated to cost about \$1,000 for judge, court staff, and security). In addition, the AOC indicates that there will also be unknown, but potentially major, additional costs for court investigators to verify proof of felon's age at the time of the crime to establish eligibility for resentencing. Finally, the AOC indicates that this measure imposes additional ongoing administrative and case-processing costs on the State's trial courts by requiring new hearings for resentencing. The additional costs to the court system are unknown and would depend on the volume of cases eligible for resentencing each year. Requiring the trial courts to implement additional case-processing procedures would increase the courts' workload and contribute to existing backlogs in criminal and civil case processing thus exacerbating the need for additional courtrooms and judicial officers to manage expanding caseload.

We note that the demand for additional courts and judicial officers increases pressure on the General Fund. We also note that to the extent the court resents an individual who submits a petition for recall to a new term that is less than their previous term, the state would realize savings resulting from the shorter incarceration period. However, there are only 230-250 individuals who currently meet the criteria for consideration within the California Department of Corrections and Rehabilitation. As such, we would expect any savings achieved to be minor, especially in comparison to the upfront costs incurred by the courts.

For example, if 100 of the eligible individuals applied for resentencing consideration and received hearings, the approximate cost to the court system would be at least \$100,000 (presumably on a one-time basis), excluding investigation costs. If 20 percent of those eligible individuals are resentenced, it would result in a savings for those 20 prisoners not serving their full life sentences. Assuming 25 percent, or 5 of those prisoners are released at the time of resentencing, there would be an immediate ongoing savings of \$125,000 (assuming an annual, marginal cost of \$25,000 per adult inmate).

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However, these assumptions do not take into account investigative costs for researching and investigating those prisoners that apply that are later determined to be ineligible for recall and resentencing, nor does it take into account the California District Attorneys Association contention that the universe of inmates to which the bill would apply is almost exclusively made up of persons convicted of first degree murder with one or more special circumstances who were at least 16 or 17 years old at the time of the offense. Therefore, the assumption that 20 percent of the prisoners being resentenced may be overly optimistic. During this time of limited state resources, it would be difficult to fund these new costs, especially since savings from resentencing is far from guaranteed.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP	2010-2011		2011-2012		2012-2013		
RV	98	FC	FC	FC	FC				
5225/Corr & Rehab	SO	No	-----	See Fiscal Analysis	-----			0001	
0250/Jud Branch	SO	No	-----	See Fiscal Analysis	-----			0001	