

1994

## Increased Sentences. Repeat Offenders (Three Strikes)

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## **Increased Sentences. Repeat Offenders. Initiative Statute.**

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### **Official Title and Summary Prepared by the Attorney General**

#### **INCREASED SENTENCES. REPEAT OFFENDERS. INITIATIVE STATUTE.**

- Increases sentences for defendants convicted of any felony who have prior convictions for violent or serious felonies such as rape, robbery or burglary.
- Convicted felons with one such prior conviction would receive twice the normal sentence for the new offense. Convicted felons with two or more such prior convictions would receive a life sentence with a minimum term three times the normal sentence or 25 years, whichever is greater.
- Includes as prior convictions certain felonies committed by juveniles 16 years of age, or older.
- Reduces sentence reduction credit which may be earned by these convicted felons.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Provisions of this measure are identical to a law that was enacted in March 1994. That law will (1) increase state prison operating costs by hundreds of millions of dollars annually, reaching about \$3 billion in 2003 and about \$6 billion annually by 2026; (2) increase state prison construction costs by about \$20 billion; (3) have an unknown net fiscal effect on local governments; and (4) possibly result in other savings of unknown magnitude to state and local governments to the extent prison sentences prevent offenders from committing additional crimes for which government would have incurred costs.
  - Because this measure reaffirms the March 1994 changes, it would have no direct fiscal impact on state and local governments.
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## Analysis by the Legislative Analyst

### Background

There are three kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. About 21 percent of persons convicted of a felony are sent to state prison. The rest are supervised on probation in the community, sentenced to county jail, or both.

Existing law classifies some felonies as "violent" or "serious," or both. Currently, felonies defined as "violent" include murder, robbery of a residence in which a deadly or dangerous weapon is used, and rape and other sex offenses. Felonies defined as "serious" include the same offenses defined as "violent" felonies, but also include other offenses such as burglary of a residence and assault with intent to commit a robbery or rape. Other felonies are classified as neither violent nor serious.

A person who has been previously convicted of a felony, and who is convicted of another felony, may be sentenced to a longer term in state prison (generally as much as five additional years) for each previous felony conviction. Also, if a person commits multiple felonies, he or she generally receives the full prison sentence for the most serious crime (the "primary offense"), and lesser, back-to-back sentences for the remaining crimes (the "secondary offenses").

Felons who are sentenced to state prison may earn "credits" if they participate in a work assignment, or an education and training program. These credits reduce the amount of time individuals spend in state prison by up to one-half. An offender also may receive credits for any time he or she spent in county jail before going to state prison.

As of July 1, 1994, there were about 124,000 inmates in state prisons. The state costs to operate the state prison system in 1994-95 will be about \$3 billion.

### Proposal

This measure proposes amendments to state law that are identical to a law enacted by the Legislature and signed by the Governor in March 1994. Consequently, adoption or rejection of this initiative will have no direct impact on existing law because the measure reaffirms provisions of the law that are already in effect.

Both the provisions of this measure and the law that was enacted in March 1994 require substantially longer prison sentences for certain repeat offenders. The primary provisions are discussed below.

#### **Increase Prison Sentences for Repeat Offenders.**

Both measures require that a person who is convicted of a felony and who has been previously convicted of one or more violent or serious felonies, be sentenced as follows:

- If the person has *one previous* serious or violent felony conviction, the mandatory sentence for *any new* felony conviction (not just a serious or violent felony) is *twice* the term otherwise required under law for the new conviction. Each new prison sentence must be served back-to-back.
- If the person has *two or more previous* serious or violent felony convictions, the mandatory sentence

for *any new* felony conviction (not just a serious or violent felony) is life imprisonment with the minimum term being the *greater* of (1) three times the term otherwise required under law for the new felony conviction, (2) 25 years, or (3) the term determined by the court for the new conviction.

#### **Count Previous Convictions While as a Minor.**

Both measures also require that specified crimes committed by a minor, who was at least age 16 at the time of the crime, count as a previous conviction. These specified crimes generally include the same crimes defined as serious and violent felonies. Prior to March 1994, crimes committed by minors and dealt with by the juvenile court did not count as previous felony convictions.

#### **Restrict Credits That Reduce Time Spent in Prison.**

Both measures require that a person who has been convicted previously of one or more serious or violent felonies may not earn credits to reduce the time he or she spends in prison for the new offense, by more than one-fifth (rather than the previous maximum of one-half), and may not receive any credits for any time spent in county jail before going to state prison.

#### **Eliminate Alternatives to Prison Incarceration.**

Both measures require that a person who is convicted of any felony (not just a serious or violent felony) and who has been previously convicted of a serious or violent felony will be sentenced to state prison. Thus, a court cannot grant the person probation or place the person in an alternative program, such as a drug treatment program.

Figure 1 illustrates how sentencing under the law that became effective in March 1994, and would be reaffirmed by the adoption of this measure, differs from the prior law. As the figure shows, the sentence for a person who has no prior felony convictions and who is subsequently convicted of a felony (whether serious, violent, or otherwise) is the same under the previous law, the law that was enacted in March 1994, and this measure.

Figure 1 also shows that the sentence for a repeat offender who has prior serious or violent felony convictions is substantially increased under the law enacted in March 1994 and that is reaffirmed by this measure. For example, under the prior law, a person convicted of burglary of a residence and who was previously convicted of the same crime would have received a prison sentence of four years with five years added for the prior offense, for a total of nine years. If the person earned maximum credits for participating in work and education programs, the person's time in prison would be reduced by half, for a total net time to serve in prison of 4.5 years (as shown in the figure). Under the current law and as reaffirmed by this measure, the person would receive a prison sentence of eight years (twice the sentence under the previous law), with five years added for the previous conviction, for a total of 13 years. If the person earned the maximum credits, the person's time in prison would be reduced by 20 percent, for a total net time to serve of 10.4 years.

**Figure 1**

**Illustrations of Changes in Prison Sentencing Law  
Prior Law Versus Current Law as Reaffirmed by This Measure**

Type of Crime  Current Offense and Prior Offense	Offender History		Time to Serve in Prison <sup>a</sup>	
	New Offense	Prior Offense <sup>b</sup>	Prior Law (prior to March 1994)	Current Law (since March 1994 and reaffirmed by this measure)
Any felony with No prior felony	Burglary of a residence	None	2 years	Same
Serious/violent felony with One prior serious/violent felony	Burglary of a residence	One prior burglary of a residence	4.5 years	10.4 years
Nonviolent/nonserious felony with Two prior serious/violent felonies	Receiving stolen property	One prior assault on a peace officer, and one prior burglary of a residence	2 years	Life sentence of at least 25 years
Serious/violent felony with Two prior serious/violent felonies	Robbery	One prior burglary of a residence, and one prior robbery	7 years	Life sentence of at least 25 years

<sup>a</sup> Assumes the offender (1) receives the typical prison sentence for the new offense, (2) receives additional prison sentences for prior offenses, and (3) earns maximum credits from participation in work/education programs.

<sup>b</sup> Assumes prior offense resulted in a prison sentence.

**Fiscal Effect**

This measure reaffirms the prison sentencing changes previously enacted by the Legislature and the Governor. Those previously-enacted changes are likely to result in the major fiscal effects that are discussed below. Because the provisions of this measure are identical to the law that was enacted in March 1994, this measure by itself will have no direct fiscal impact on state or local governments.

**State Prison Operating Costs.** The state's prison population will increase substantially because the previously enacted changes (1) significantly increase prison sentences, (2) limit the ability of repeat offenders to earn credits to reduce the time they spend in prison, and (3) require more persons who otherwise could have been granted probation or sentenced to county jail to be sentenced to state prison.

Based on information provided by the Department of Corrections, these changes will result in additional state operating costs of about \$200 million in 1995-96, and will grow by several hundred million dollars each year

until the full impact is realized in about 32 years. By the year 2003, the additional costs will reach about \$3 billion, and will grow to about \$6 billion annually by the year 2026. These amounts assume that the changes will add about 270,000 more inmates to the state's prison population than would have otherwise occurred.

**State Prison Construction Costs.** The Department of Corrections estimates that it will incur one-time costs of about \$20 billion over the next 32 years to construct the new facilities to house the projected increase in the prison population.

**Fiscal Impact on Local Governments.** Local governments (particularly counties) will experience some savings because some persons will be shifted to state prison who would have otherwise been kept in county jail or supervised in the community by county probation departments. In addition, because some offenders will serve much longer sentences in state prison, thus limiting their ability to commit additional crimes, local governments will save money that they would have otherwise spent for investigations, arrests, prosecutions, trials, and supervision of offenders.

These savings would be offset to an unknown extent by additional costs to local governments for more and longer trials. This is because some offenders who would previously have pleaded guilty to crimes may be more likely to fight the charges against them since a conviction will result in a substantially longer prison sentence.

Because of uncertainties regarding the likely behavioral changes of offenders, the net fiscal effect on local governments is unknown.

***Other Impacts on State and Local Governments.***

Finally, both measures could result in savings to the noncriminal justice components of state and local governments. These savings would occur to the extent that longer prison sentences prevent offenders from committing additional crimes, which if the crimes had occurred, would have resulted in costs to the state and local governments (for example, government-paid medical costs for persons without insurance who are injured during a crime). The magnitude of these savings is unknown.

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**For the text of Proposition 184 see page 64**

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### Argument in Favor of Proposition 184

On June 29, 1992, 18 year old Kimber Reynolds was leaving a Fresno restaurant when two men on a stolen motorcycle tried to steal her purse. When Kimber resisted, her assailant, without warning, produced a .357 magnum and shot her point blank in the head. She died 26 hours later with family at her bedside.

Mike Reynolds, Kimber's father, vowed to spare others from the senseless tragedy that killed his daughter. Thus began 3 Strikes and You're Out.

3 Strikes keeps career criminals, who rape women, molest innocent children and commit murder, behind bars where they belong.

Here's how it works:

**Strike One:** One serious/violent felony serves as a first strike toward a stiffer prison term.

**Strike Two:** A second felony conviction, with one prior serious/violent felony, **DOUBLES** the base sentence for the conviction. Any additional enhancements under existing law, including those for prior convictions, are then added.

No probation.

**Strike Three:** A third felony conviction, with two serious/violent prior felonies, **TRIPLES** the base sentence or imposes 25 years to life, whichever is greater.

No probation.

A "truth in sentencing" provision requires felons to serve at least 80% of their terms for second and third strike convictions. Harsher punishments like the death penalty still apply.

Convictions before 1994, including the murder charge for which one of Kimber's killers is serving just nine years, are counted as strikes. Felonies committed outside California, or by juveniles, are counted as strikes. Prosecutors have discretion, with court approval, to dismiss a prior strike in the interest of justice.

The threat of our initiative forced Sacramento politicians to pass 3 Strikes. Now, they're trying to weaken it. Our vote for Proposition 184 will strengthen the law and tell politicians, "hands off 3 Strikes."

In addition to saving lives, California taxpayers will no longer have to pay the outrageous costs of running career criminals through the judicial system's revolving door over and over again.

**3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!**

According to the Office of Planning and Research, **3 STRIKES SAVES \$23 BILLION** over five years.

Every repeat felon returned to our streets costs nearly \$200,000 annually in direct losses to victims and the enormous expense of running the same criminals through the police stations, courts, and prisons time and again.

**3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!**

Proposition 184 is supported by:

- Parents of Murdered Children
- California Correctional Peace Officers Association
- National Tax Limitation Committee
- Women Prosecutors of California
- California Police Chiefs' Association
- Crime Victims United
- Center for the California Taxpayer
- California Peace Officers' Association
- Doris Tate Crime Victims Bureau
- Paul Gann Citizens Committee
- California State Sheriffs' Association
- Committee to Protect the Family
- Americans for Tax Reform
- Peace Officers Research Association of California
- Justice for Murder Victims
- California Narcotic Officers' Association
- Memory of Victims Everywhere
- National Victim Center

3 Strikes is supported by police chiefs, sheriffs, district attorneys, victims' organizations, and taxpayer groups throughout California.

Why do they all say "YES" ON 184?

Because **3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!**

**MIKE REYNOLDS**

*Board Member, Crime Victims United*

**JAN SCULLY**

*Director of Policy, Women Prosecutors of California*

**MIKE HUFFINGTON**

*Co-Chair, 3 Strikes and You're Out*

### Rebuttal to Argument in Favor of Proposition 184

**DON'T BE FOOLED!!**

**FACT: PROPOSITION 184 WILL COST TAXPAYERS BILLIONS ANNUALLY.**

The "savings" claimed by the proponents are false. Their numbers have been totally discredited by researchers at the Rand Corporation and the University of California. The California Department of Corrections estimates that Proposition 184 will quickly cost billions per year—significantly more than the current cost for all of higher education.

**LOCAL SCHOOLS, COLLEGES, HOSPITALS, POLICE AND FIRE DEPARTMENTS WILL BE CRIPPLED BY THE HUGE COST OF PROPOSITION 184.**

**FACT: PROPOSITION 184 LUMPS IN NONVIOLENT OFFENDERS WITH VIOLENT CRIMINALS.**

The Los Angeles District Attorney's Office says that three out of four who get life sentences under Proposition 184 will be nonviolent offenders—at a cost of \$48 billion over 20 years for L.A.'s prisoners alone.

**FACT: MANY LAW ENFORCEMENT OFFICIALS OPPOSE PROPOSITION 184.**

District attorneys and police across the state have repeatedly criticized this initiative because it will fill our prisons with aging, nonviolent offenders.

**FACT: CRIME VICTIMS OPPOSE PROPOSITION 184.**

The Klaas family, whose little girl's violent death spurred on "three strikes", opposes Proposition 184 as the wrong approach to violent crime. Recently, a San Francisco grandmother refused to prosecute a car break-in because the perpetrator would have gotten life.

**FACT: PROPOSITION 184 DOES NOT CHANGE THE LAW.**

This measure is identical to three strikes legislation already signed into law. Don't endorse a bad and unworkable law. *Tell the legislature to correct this badly flawed and overpriced law.*

**VOTE NO ON PROPOSITION 184.**

**JAMES FOX**

*District Attorney, San Mateo County*

**MARLYS ROBERTSON**

*President, League of Women Voters of California*

**MARC KLAAS**

*Member of the Board of Directors,  
Polly Klaas Foundation*

Argument Against Proposition 184

Californians are sick and tired of the violence and misery caused by people who go to prison for violent crimes, only to be released to strike again. We need strong laws that keep these repeat, violent offenders in prison for life if necessary.

BUT PROPOSITION 184 IS THE WRONG LAW. IF IT PASSES, OUR PRISON SYSTEM WILL BE BLOATED WITH NON-VIOLENT OFFENDERS SERVING LIFE TERMS.

Here are some of the problems with Proposition 184:

- The third strike does not have to be violent or serious—it can be any felony at all. A 50-year-old man who twice stole a bicycle from a garage as a teenager, and who now writes a bad check, will get a life sentence under Proposition 184. Three out of four people convicted under this Proposition will be imprisoned for NON-VIOLENT offenses!
• This Proposition arises from the tragic kidnap and killing of Polly Klaas. But even the Polly Klaas family opposes Proposition 184, because it treats non-violent crimes the same as murder, rape or armed robbery.
• Because so many people will be drawn into the Proposition 184 net, taxpayer costs for prisons will soar. The Department of Corrections estimates that this law will cost taxpayers \$21 billion to build new prisons, and quickly cost billions each year to run them.

WHERE WILL THE BILLIONS OF DOLLARS COME FROM TO KEEP ALL THESE NON-VIOLENT OFFENDERS IN PRISON FOR LIFE? The state will have to INCREASE

OUR TAXES or SEVERELY CUT ESSENTIAL SERVICES such as:

- Police and fire services
• Education for our children, our hope for the future
• Medical care for seniors and children
• Creating and preserving our parks and open spaces

The politicians are refusing to give voters a choice. We need a repeat offender law that targets violent criminals—not one that sweeps HUNDREDS OF THOUSANDS OF NON-VIOLENT OFFENDERS INTO LIFE PRISON TERMS.

Don't sign a blank check for a bad law. Send a message to the politicians. Tell them to do their job by passing a law that targets repeat, violent criminals—not a grandstanding law that fills our prisons with aging non-violent offenders.

THIS THREE STRIKES MEASURE IS A SLOGAN, NOT A SOLUTION. VOTE NO ON PROPOSITION 184.

MARC KLAAS
Member of the Board of Directors,
Polly Klaas Foundation

TERRENCE STARR
President, California Probation, Parole and
Correctional Association

MARY BERGAN
President, California Federation of Teachers

Rebuttal to the Argument Against Proposition 184

815,000 California voters signed petitions to place 3 Strikes and You're Out on the ballot. We did it because soft-on-crime judges, politicians, defense lawyers and probation officers care more about violent felons than they do victims. They spend all of their time looking for loopholes to get rapists, child molesters and murderers out on probation, early parole, or off the hook altogether. Well, this time it's victims first!

Opponents of 3 Strikes and You're Out will say anything to keep criminals out of jail. But, their false accusations won't work.

Here is what they would like you to believe:

CLAIM

"Our prison system will be bloated with non-violent offenders."

FACT

NOT TRUE: 3 Strikes targets only career criminals—those with a history of committing SERIOUS/VIOLENT crimes.

CLAIM

"The state will have to increase our taxes."

FACT

FALSE: Under 3 Strikes, California taxpayers will no longer

have to pay the outrageous costs of running career criminals through the judicial system's revolving door time and again. The Office of Planning and Research estimates 3 STRIKES WILL SAVE TAXPAYERS \$23 BILLION over five years.

CLAIM

Proposition 184 will "severely cut essential services."

FACT

HOGWASH: Taxpayers will save \$23 Billion under 3 Strikes. Services will not be cut. 3 Strikes is endorsed by the California Police Chiefs' Association, California Peace Officers' Association, California State Sheriffs' Association and law enforcement throughout the state.

3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS! YES ON 184!

JAN MILLER
Chairperson, Doris Tate Crime Victims Bureau

CHIEF LARRY TODD
President, California Police Chiefs' Association

LEWIS K. UHLER
Chairman, Center for the California Taxpayer

same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

2703.15. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount equal to that sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

2703.16. (a) Money may be transferred from the fund to the State Transportation Fund to reimburse the Transportation Planning and Development Account and the State Highway Account for expenditures made from those accounts, on and after November 9, 1994, for capital improvements and acquisitions of rolling stock for intercity rail, commuter rail, and urban rail transit in accordance with Chapter 2 (commencing with Section 14520) of Part 5.3 of Division 3 of Title 2 of the Government Code, as specified in Section 2703.06.

(b) The amount that may be transferred pursuant to subdivision (a) shall not exceed the amount expended from those accounts for those capital improvements and acquisitions of rolling stock.

2703.17. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2703.18. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2703.18. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2703.17. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled

Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2703.19. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

2703.20. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

2703.21. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2703.22. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

2703.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.

## PROPOSITION 182 WAS REMOVED BY LAW

### Proposition 183: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 38 (Statutes of 1994, Resolution Chapter 59) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in **strikeout type** and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE II, SECTION 15

SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. ~~If~~

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

### Proposition 184: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

The People of the State of California do enact as follows:

It is the intent of the People of the State of California in enacting this measure to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious and/or violent felony offenses.

SECTION 1. Section 1170.12 is added to the Penal Code, to read:

1170.12. (a) Notwithstanding any other provision of law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6) of this subdivision, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

(b) Notwithstanding any other provision of law and for the purposes of this section, a prior conviction of a felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular felony as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication shall constitute a prior felony conviction for purposes of sentence enhancement if:

(A) The juvenile was sixteen years of age or older at the time he or she committed the prior offense, and

(B) The prior offense is  
(i) listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, or

(ii) listed in this subdivision as a felony, and  
(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law, and

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(c) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has a prior felony conviction:

(1) If a defendant has one prior felony conviction that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) If a defendant has two or more prior felony convictions, as defined in paragraph (1) of subdivision (b), that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of

(i) three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior felony convictions, or

(ii) twenty-five years or

(iii) the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(d) (1) Notwithstanding any other provision of law, this section shall be applied in every case in which a defendant has a prior felony conviction as defined in this section. The prosecuting attorney shall plead and prove each prior felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior felony conviction, the court may dismiss or strike the allegation.

(e) Prior felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior felony conviction allegation except as provided in paragraph (2) of subdivision (d).

SECTION 2. All references to existing statutes are to statutes as they existed on June 30, 1993.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. The provisions of this measure shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

## Proposition 185: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure amends and adds sections to various codes; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

The People of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 2. The People of the State of California find and declare all of the following:

(a) Improving air quality and saving energy are vital for the well-being of the people of California. One of the best ways to accomplish these goals is to convert existing public transit systems to electrical and clean fuel operation and to build new public transit systems which run on electricity and clean fuels.

(b) Improving public transportation service to those with disabilities and the elderly is an important public goal.

(c) Increasing the efficiency of public transportation systems, and reducing waste and bureaucratic overhead is important in an era of diminished public resources.

(d) When funds are collected for a specific transportation purpose, they should be used for that purpose.

(e) Preventing crime and graffiti on public transportation vehicles is important to the quality of life in our cities, and to the safety and security of transit passengers.

(f) Reinforcing roads and bridges to prevent loss of life in earthquakes is a worthwhile use of transportation funds.

(g) Increasing the safety of passenger rail systems by utilizing automated enforcement technology at grade crossings will save lives and reduce accidents by providing for more effective and efficient enforcement of grade crossing laws.

(h) Providing funds to reduce the impact of transportation on the environment by protecting sensitive lands, planting trees in and near urban areas, providing funding for bicycle and trail projects, and other projects is an appropriate use of transportation funding.

(i) It is appropriate to pay for these programs through an increase in the sales tax on gasoline.

SECTION 3. Section 14502.5 is added to the Government Code, to read:

14502.5. (a) *The Rail Committee of the California Transportation Commission is hereby created, and is comprised of three of the members of the commission appointed pursuant to subdivision (a) of Section 14502. No member of the committee shall be the commissioner who represents the Public Utilities Commission. All appointees to the committee shall have knowledge and expertise in rail and other forms of public transportation.*

*For the initial committee, two of the members of the committee shall be the members of the commission who are appointed to the commission after January 10, 1995, to fill the vacancies on the commission which occur in 1995. The third member of the committee shall be appointed by the Governor after January 10, 1995, from the current members of the commission, and shall serve until the*

*Governor fills the next vacancy on the commission, at which time the member appointed to fill that vacancy shall become the third member of the committee.*

(b) *The committee shall have full and sole jurisdiction and authority to allocate the funds made available to it pursuant to the Clean Air, Jobs, and Transportation Efficiency Act of 1994. In addition, the committee shall have the full authority to allocate all state and federal rail and public transit funds over which the commission otherwise would have jurisdiction, including bond funds approved by the voters, and transit funds made available pursuant to the Transportation Planning and Development Account, and other state funds available to the commission which are designated for rail and other public transit projects. Nothing in this subdivision shall be interpreted as granting either the commission or the committee the authority to allocate federal funds to a local transit agency or the department that are allocated directly from the federal government. The commission shall program all funds which may be allocated on a flexible basis to transit or highway purposes. The committee shall allocate all flexible funds which are programmed by the commission for transit purposes. The members of the committee shall be full voting members of the commission on all matters which require action by the commission.*

(c) *The purpose of this section is to streamline and expedite the early allocation and distribution of funds provided for rail and public transit programs, and to efficiently expend funds authorized by the Clean Air, Jobs, and Transportation Efficiency Act of 1994, to stimulate the California economy and create jobs.*

(d) *The committee shall cease to exist on January 1, 2000, and the full commission shall assume the powers and duties of the committee pursuant to the Clean Air, Jobs, and Transportation Efficiency Act of 1994.*

SECTION 4. Section 29531 of the Government Code is amended to read:

29531. (a) *The board of supervisors shall continuously appropriate the money in such the local transportation fund for expenditure for the purposes specified in this article directly related to administration of the fund and the fund's revenue and the transportation and associated fund administration purposes specified in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.*

(b) *The local transportation fund is a trust fund. Once the local transportation fund is created, it shall not be abolished. Money in the fund shall only be allocated to mass transportation, pedestrian and bicycle facilities, streets and roads, transportation planning, and fund administration purposes, as required by this article and by Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. Neither the county nor the Legislature shall divert any of the money in the fund from these purposes to another purpose.*

(c) *If a statute transfers any funds or results in the transfer of any funds from the local transportation fund to any other account, fund, or other depository, directly or indirectly, within 90 days of the effective date of the statute, the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the local transportation fund. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.*

SECTION 5. Section 25619 is added to the Public Resources Code, to read:

25619. (a) *Funds transferred pursuant to subdivision (e) of Section 7103 of the Revenue and Taxation Code are continuously appropriated, notwithstanding Section 13340 of the Government Code and without regard to fiscal year, to the*