

1998

Murder. Peace Officer Victim. Sentence Credits.

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Murder. Peace Officer Victim. Sentence Credits. California Proposition 222 (1998).
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Murder. Peace Officer Victim. Sentence Credits. Legislative Initiative Amendment.

Official Title and Summary Prepared by the Attorney General

MURDER. PEACE OFFICER VICTIM. SENTENCE CREDITS. LEGISLATIVE INITIATIVE AMENDMENT.

- Amends Penal Code section 190, which provides that second degree murder of peace officer who defendant knows or should know is performing official duty, is punishable by 25 years to life in prison, to provide that such murder, if committed either intentionally, with intent to commit great bodily injury, or with personal use of a firearm or dangerous or deadly weapon, is punishable by life in prison without parole. Eliminates duplicative provision in Penal Code.
- Persons convicted of any murder may not earn credits in prison to reduce the sentence.

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

- Probably minor additional state costs.
-

Final Votes Cast by the Legislature on AB 446 (Proposition 222)

Assembly: Ayes 74
Noes 1

Senate: Ayes 33
Noes 0

Analysis by the Legislative Analyst

Background

Under California law, there are two "degrees" of murder.

First degree murder is generally defined as murder that is intentional or deliberate, or that takes place during certain other crimes, including arson, rape, or robbery.

All other types of murder are second degree murder. It is generally punishable by imprisonment for 15 years to life with the possibility of parole. An exception is provided in some cases involving the second degree murder of a peace officer.

State law provides that certain prison inmates who participate in work and education programs or who demonstrate good conduct while in prison shall receive credits that reduce the time they must stay in prison. However, any person convicted of second degree murder of a peace officer is ineligible to receive these credits.

State law also provides that if a peace officer is killed in the line of duty and the person convicted of the murder knew or should have known that the victim was a peace officer, the crime is punishable by a prison term of

25 years to life. Under a law that was enacted in September 1997, the second degree murder of a peace officer is punishable by a longer term of life in prison without the possibility of parole if it is also found that the murderer specifically intended to kill or greatly injure the peace officer, or used a firearm or other dangerous weapon in the crime.

Proposal

This proposition provides that no person convicted of murder is eligible to receive credits that reduce the time he or she spends in state prison. This measure also places before the voters a provision that is virtually identical to the law enacted in September 1997 relating to the second degree murder of a peace officer.

Fiscal Effect

This proposition would increase state costs primarily as a result of longer prison terms for the murderers specified by the measure. However, these costs are probably minor, because relatively few offenders would likely be affected.

For the text of Proposition 222 see page 67

Murder. Peace Officer Victim. Sentence Credits. Legislative Initiative Amendment.



Argument in Favor of Proposition 222

Proposition 222 helps keep violent cop killers off our streets by closing a loophole in California law that now allows some cop killers to be released early on parole. Proposition 222 closes this dangerous loophole by requiring life in prison without possibility of parole for any criminal convicted of second degree murder of a peace officer.

Proposition 222 also prohibits convicted killers from using "work credits" to speed their release from prison before serving their entire sentence. Under current law, murderers can use work credits to reduce their prison sentences by 15% to 33%.

Proposition 222 prevents violent criminals from manipulating the work credit system, and requires them to serve their entire prison sentence.

- Criminals convicted of 1st degree murder without special circumstances would have to serve at least 25 years in prison under Proposition 222, with no possibility of early parole.
- Criminals convicted of 2nd degree murder during a drive-by shooting would have to serve at least

20 years in prison under Proposition 222, with no possibility of early parole:

- Criminals convicted of 2nd degree murder would have to serve at least 15 years under Proposition 222, with no possibility of early parole.

Proposition 222 guarantees that vicious murderers are not released before serving their minimum prison sentences. Proposition 222 also guarantees that criminals convicted of murdering a peace officer will not be released on parole—period.

Peace officers lay their lives on the line for us every day and night serving and protecting the public. They deserve our support and protection. To help keep murderers and cop killers off our streets, vote "yes" on Proposition 222.

ROD PACHECO
Assemblyman, 64th District

JOHN R. LEWIS
State Senator, 33rd District

PETE WILSON
Governor, State of California

Argument against was not submitted

an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judges of other

(b) (1) *In counties in which there is no municipal court, judges of superior courts shall be elected in their counties at general elections except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.*

(2) *In counties in which there is one or more municipal court districts, judges of superior and municipal courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.*

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.

Tenth—That Section 23 is added to Article VI thereof, to read:

SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to Section 16 of Article I, approved at the June 2, 1998, primary election is to permit the Legislature to provide for the abolition

of the municipal courts and unify their operations within the superior courts. Notwithstanding Section 8 of Article IV, the implementation of, and orderly transition under, the provisions of the measure adding this section may include urgency statutes that create or abolish offices or change the salaries, terms, or duties of offices, or grant franchises or special privileges, or create vested rights or interests, where otherwise permitted under this Constitution.

(b) *When the superior and municipal courts within a county are unified, the judgeships in each municipal court in that county are abolished and the previously selected municipal court judges shall become judges of the superior court in that county. The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court. The 10-year membership or service requirement of Section 15 does not apply to a previously selected municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe appropriate education and training for judges with regard to trial court unification.*

(c) *Except as provided by statute to the contrary, in any county in which the superior and municipal courts become unified, the following shall occur automatically in each preexisting superior and municipal court:*

(1) *Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.*

(2) *Preexisting court locations are retained as superior court locations.*

(3) *Preexisting court records become records of the superior court.*

(4) *Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.*

(5) *Matters of a type previously within the appellate jurisdiction of the superior court remain within the jurisdiction of the appellate division of the superior court.*

(6) *Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.*

(7) *Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.*

Eleventh—That if any provision of this measure or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this measure that can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

Proposition 221: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 19 (Statutes of 1996, Resolution Chapter 54) expressly amends the Constitution by adding a section thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE VI

SEC. 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers, according to the

same standards, and subject to review upon petition to the Supreme Court, as specified in Section 18.

No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

This section does not diminish or eliminate the responsibility of a court to exercise initial jurisdiction to discipline or dismiss a subordinate judicial officer as its employee.

Proposition 222: Text of Proposed Law

This law proposed by Assembly Bill 446 (Statutes of 1997, Chapter 413) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law amends a section of the Penal Code; 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

SECTION 1. Section 190 of the Penal Code, as amended by Chapter 609 of the Statutes of 1993, is amended to read:

190. (a) Every person guilty of murder in the first degree

Text of Proposed Laws—Continued

shall suffer death, confinement in the state prison for life without the possibility of parole, or confinement in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b) or (e), (c), or (d), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 15 years to life.

Except as provided in subdivision (b), Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 15, 20, or 25 years in the state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a) or (b) of Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties.

(b) (c) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 25 years to life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a) or (b) of Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties, and any of the following facts

has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of 25 years in the state prison when the person is guilty of murder in the second degree and the victim was a peace officer, as defined in this subdivision, and the person shall not be released prior to serving 25 years confinement.

(e) (d) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of 20 years in the state prison when the person is guilty of murder in the second degree and is subject to this subdivision, but the person shall not otherwise be released on parole prior to that time. A sentence imposed pursuant to this section may not be released on parole prior to serving the minimum term of confinement prescribed by this section.

Proposition 223: 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 sections to the Education Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

EDUCATIONAL EFFICIENCY INITIATIVE

SECTION 1. Part 26.2 (commencing with Section 46650) is added to the Education Code, to read:

PART 26.2. EDUCATIONAL EFFICIENCY INITIATIVE

CHAPTER 1. DESIGNATION

46650. This act shall be known as the California Educational Efficiency Act.

CHAPTER 2. PURPOSE

46651. It is the intent of this initiative to require that no less than ninety-five cents (\$0.95) of each dollar appropriated for elementary and secondary public education be contributed in an accountable manner to the academic value of the actual in-school educational experience of pupils so that ninety-five cents (\$0.95) of each dollar is spent on direct services to pupils, schoolsite employees, and school facilities. It is the further intent of this initiative to do all of the following:

(a) To reduce the cost of non-school administration in public schools.

(b) To mandate that existing state educational funds be efficiently spent to educate our children.

(c) To allow increased school effectiveness without additional taxes.

(d) To allow a decrease in student/teacher ratio without additional taxes.

(e) To guarantee that any additional new funding for public education will go to schools and classrooms first.

(f) To increase the accountability of the school districts to the citizens of California.

(g) To sanction school districts that fail to be efficient.

(h) To give the community greater decisionmaking authority over their schools.

CHAPTER 3. DEFINITIONS

46652. (a) The term "categorical program" means all those programs set forth in the Education Code that provide funding for special programs, including, but not limited to, programs established for technical schools, youth and adult offenders, adult education, science achievement, environmental education, healthy start program, parenting education, pregnant minors, summer school for the arts, early primary education, academic partnership, school libraries, Native American education, child nutrition allowances, school integration, year-round schools, staff development, new careers, mentor teacher, ethics and civic values, readers for blind teachers, international studies, bilingual office employees, counseling, opportunity schools and classes, nutrition, breakfast and lunch programs, learning disabilities, educational improvement. "Categorical program" shall also include categorical programs receiving federal funds, including, but not limited to, special education programs (Part 30 (commencing with Section 56000) of the Education Code).

(b) "Direct services to pupils" means professional services rendered directly to pupils by certificated or licensed personnel, including, but not limited to, teachers, supervisory personnel, nurses, physicians, psychologists, counselors, audiologists, audiometrists, librarians, and other support services personnel, or all instances where pupils are the direct beneficiaries of immediate and unbrokered services provided to them, such as transportation, cafeteria services, safety and security personnel protection services, and the services of a school supervisor or principal.

(c) "Direct services to schoolsite employees" means immediate and unbrokered services to schoolsite employees, such as actual training or professional development sessions or classes, police services, school-assigned personnel providing management functions and support to the school supervisor or principal, and the services of the school supervisor or principal.

(d) "Direct services to school facilities" means the labor and material costs of the actual physical cleaning, maintenance, and improvement of school facilities exclusive of any central district